# H.R. 5292, "THE FLEXIBLE FUNDING FOR CHILD PROTECTION ACT OF 2000"

# HEARING

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

JANUARY 3, 2000

**Serial 106–73**

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE

68–104 CC WASHINGTON : 2000

For sale by the U.S. Government Printing Office
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# H.R. 5292, "THE FLEXIBLE FUNDING FOR CHILD PROTECTION ACT OF 2000"

**TUESDAY, OCTOBER 3, 2000**

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON HUMAN RESOURCES,
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:05 a.m., in room B–318, Rayburn House Office Building, Hon. Nancy L. Johnson (Chairman of the Subcommittee) presiding.

[The advisory announcing the hearing follows:]

# *ADVISORY*

## FROM THE COMMITTEE ON WAYS AND MEANS

## SUBCOMMITTEE ON HUMAN RESOURCES

FOR IMMEDIATE RELEASE
September 26, 2000
No. HR–25

CONTACT: (202) 225–1025

# Johnson Announces Hearing on H.R. 5292, the "Flexible Funding for Child Protection Act of 2000"

Congresswoman Nancy L. Johnson (R–CT), Chairman, Subcommittee on Human Resources of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on H.R. 5292, the "Flexible Funding for Child Protection Act of 2000." The hearing is being called in lieu of the Subcommittee markup originally scheduled for Wednesday, September 27, 2000. The hearing will take place on Tuesday, October 3, 2000, in room B–318 Rayburn House Office Building, beginning at 10:00 a.m.

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. Witnesses will include State administrators of child protection programs, child advocates, and researchers. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

**BACKGROUND:**

In 1980, Congress passed legislation that created a program of Federal support for child protection programs conducted by State and local governments. The legislation created two major programs: a capped grant program under Title IV–B of the Social Security Act that gave States flexibility in providing treatment for families and children involved in abuse or neglect as well as services for foster and adoptive families; and a series of open-ended entitlement programs under Title IV–E that help States operate their foster care and adoption programs for children who have been removed from their families. The funding for the IV–B grant program has grown very little since 1980 while the IV–E program has grown rapidly. The emphasis in Federal funding may appear unintentionally to be on maintaining children in out-of-home care, and not on providing services so that children can be either safely returned to their families or adopted in timely fashion.

As a result, there is now interest in increasing the amount of flexibility States have in using their IV–E dollars. On September 26, 2000, Chairman Johnson introduced H.R. 5292, a bill that would provide flexible funding demonstrations to determine whether providing States with flexible funds for child protection has an effect on caseload levels, enhances availability and use of services, efficiency of service delivery, and child safety, permanency, and well-being. The goal is to find ways to allow States to use the IV–E dollars for prevention and treatment as well as out-of-home placement.

The bill includes three options that would increase flexibility in State use of Federal IV–E dollars. In the first approach, States would negotiate a baseline of expected spending with the Secretary of the U.S. Department of Health and Human Services. States would then receive the exact amount of money specified in the baseline in quarterly payments and would be free to spend the dollars on any child protection activity including prevention, treatment, and out-of-home care. However, States could return to the IV–E program of open-ended funding at the start of any

fiscal year. In the second approach, States would also negotiate a baseline. In this case, however, States would identify a specific intervention program expected to save money by reducing out-of-home care or by other means. If the program does save money, the savings could be transferred out of the IV–E program into the IV–B program where States would have more flexibility in using the funds for prevention and treatment. The third proposal would strengthen the current waiver authority for child protection programs in the Social Security Act, especially by allowing permanent waivers.

States have already shown their interest in flexible Federal funding by taking advantage of Federal legislation enacted in 1993 that provides them with the opportunity to obtain waivers from Federal child protection law. Several States are now conducting waiver programs to test whether they can use the greater flexibility permitted by waivers to improve their child protection programs. Other States have simply moved ahead on their own with new methods of financing child protection services.

In announcing the hearing, Chairman Johnson stated: "We must do everything we can to promote safe and loving homes for children. However, current law provides open-ended entitlement dollars for putting children into foster care, but limits the amount of money for treating at risk families and providing services to children. I believe we must find ways to allow States to flexibly use Federal funds to enhance the availability and use of services and to promote the safety, permanency, and well-being of these vulnerable children."

**FOCUS OF THE HEARING:**

The hearing will provide an opportunity for witnesses to give their reactions to H.R. 5292.

**DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:**

Any person or organization wishing to submit a written statement for the printed record of the hearing should *submit six (6) single-spaced copies of their statement, along with an IBM compatible 3.5-inch diskette in WordPerfect or MS Word format, with their name, address, and hearing date noted on a label,* by the *close of business*, Tuesday, October 17, 2000, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Human Resources office, room B–317 Rayburn House Office Building, by close of business the day before the hearing.

**FORMATTING REQUIREMENTS:**

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be submitted on an IBM compatible 3.5-inch diskette WordPerfect or MS Word format, typed in single space and may not exceed a total of 10 pages including attachments. **Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.**

2.Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3.A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4.A supplemental sheet must accompany each statement listing the name, company, address, telephone and fax numbers where the witness or the designated representative may be reached. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press, and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at "http://waysandmeans.house.gov."

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

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Chairman JOHNSON. As many of you know, I have been working for well over a decade to give States greater control over the Federal resources we provide to them to battle against child abuse and neglect. I recognize that the current structure of Federal funding, which includes capped and relatively small resources for prevention and treatment as contrasted with open-ended and rapidly-growing entitlement funds for out-of-home placements, has achieved the very worthy purpose of leading to big increases in Federal spending on child protection, but we are spending most of our money on out-of-home care.

Here is the essence of the proposals I have been making for many years. Give States exactly the same amount of money they would get under current law. Depending on the State and the time period, this amount would almost always increase every year, sometimes substantially. Then let the States decide whether to spend the money on prevention, treatment, court procedures, out-of-home care, or any other of the scores of worthy purposes.

Let me tell you why I think this approach would be better than current law. Once we provide financial incentives for States to keep children out of foster care or to minimize the length of time they spend in foster care, I believe States will take three actions.

First, they will do a better job of preventing the removal of children from homes, and we now frankly have lots of evidence to support this belief.

Second, they will increase the quality of their casework and the efficiency of their administrative procedures. The result will be that when States do remove a child from her home, States will take much less time than currently to push the case to a decision about permanency, whether that means the child is returned home or the parental rights are terminated.

Third, States will increase their use of adoption, even above the current very high level.

Let me assure everyone with a concern with the nation's child protection system that I have never been interested in saving Federal money with my flexible funding proposals. In fact, not only do States receive all the money they have coming, including projected spending increases, but the Congressional Budget Office has con-

sistently scored my proposals as putting additional Federal dollars into the child protection system. In fact, that has been one of the problems. They score my bill as a coster. You ought to be for that.

In the past, I have been constructively criticized by Democrats and child advocates for endangering the major source of funding growth in the Federal child protection system and for placing children at risk. I have never doubted the sincerity or usefulness of these criticisms. In fact, over the years, I have made many perfecting changes to my basic proposal to respond to these criticisms.

I believe the proposal we introduced last week responds to all the important problems raised by critics of my earlier legislation. All of the child protections of current law are preserved. The two funding flexibility proposals are confined to a maximum of ten demonstration States, which will allow a fair test of whether States can use the funding flexibility to good effect.

And above all, we have developed two mechanisms, one with extensive help from the American Public Human Services Association, to protect the open-ended entitlement while simultaneously allowing much greater flexibility in State use of Federal resources. And equally important, given the research funds in my bill, we are nearly certain to learn a great deal about how States react to the new funding flexibility and whether they are, in fact, able to advance a child's safety, permanency, and well being.

We received several frantic calls that because our bill replaces the current Section 1130(a) of the Social Security Act, we are repealing the Suter provision we worked so hard to enact several years ago. Let the record show that the Suter provision was mistakenly put into two sections of the Social Security Act. Once our bill replaces the Suter provision in Section 1130(a), it will still have a comfortable home in Section 1123, where I expect it will live a long and useful life.

I fervently hope that we would be able to enact our funding flexibility proposal in the 106th Congress, but I am realistic and I now have concluded that the stars are not yet in the correct alignment to allow this proposal to pass both houses of Congress and be signed by the President. I held this hearing today because I want to create a permanent record that this bill is well worth enacting and it will lead to a new era of protecting our nation's most vulnerable children. In fact, hopefully, with Ben Cardin's help, we will be back in this room in February marking up this legislation and finding a way to push it through the Senate into public law.

Finally, I thank all the State officials, members of Congress, and child advocates who have worked so hard to help us improve this proposal. The American Public Human Services Administration, under the inspired leadership of Bill Waldman, deserves a special note of thanks. I think that because of the tireless and sustained efforts of all those who have helped with this bill, we are very close to bipartisan agreement on a new vision of child protection.

I would also like to say personally that if you go back to the first time I introduced this legislation in the late 1980s, you will see that under it, States would have gotten more money than they are currently getting. It really is a tragedy that because of fear we were unable to pass this legislation that would have given children hope in America. I say that very, very seriously. We have in this

bill mechanism that allows States to realize dollars in the future that they may not now qualify for or if they have an unexpected change in the number of children eligible for foster care they can go back to the old entitlement process. I believe the mechanism we have in this bill is better than the mechanism we had in the 1980s bill.

But I really am urging the community to begin to understand and ask themselves, can we in good conscience go forward and predicate the majority of money for child protective services on out-of-home placement in an era when there are major, major policy initiatives already in place that are going to reduce the number of children in foster care, i.e., reduce the money flowing to States.

So I think if you really are concerned about funding for child protective services, you really have to look at this bill as a very progressive and very important step forward, and I really regret that there is not the commitment to move this through the House because I think it would put us in a much better position next session to go the whole way. But I cannot do that alone at this time in the year. You know that. I know that. I am utterly realistic about that.

But I do say to you, mark my words, our primary job is to see that the States have money. They are going to need more money for these children because they are difficult children and some are not adoptable. These children need a much different support service system just like in welfare. Welfare succeeds because we have a much bigger series of services that help with the transition.

So it is a sea change we have to make. We cannot let our fear of losing the entitlements prevent us from developing a strong funding system to strengthen families as a whole.

So I regret that we cannot go further, but I think it is very important to set the record today, to begin to look at how far States have already come and the remarkable things that are happening as a result of waivers that allow this approach and also to allow those that still have reservations to put those reservations on the record.

Mr. Cardin?

Mr. Cardin. Thank you, Madam Chair, and thank you for the passion you bring to this subject. This will probably be the last hearing of our subcommittee in the 106th and let me just take a moment, if I might, to congratulate you, Madam Chair, for an outstanding record in this 106th Congress. I am very proud to have been your partner in the work of this committee.

We have passed some extremely important legislation. Some has already been enacted into law. And we hope that we will get the other body to pass some bills before they adjourn and I think we can be very proud of the record that you have achieved during this Congress. You have truly put our most vulnerable first before politics and have been willing to reach out to each member of our committee, Democrat and Republican alike, and I personally thank you for that and you should be very proud of the record of this committee.

Chairman JOHNSON. Thank you.

Mr. CARDIN. Madam Chair, your legislation that is before us today, raises some very important issues, particularly the need for preventive family-oriented services designed to reduce out-of-home

placement of children. However, I believe the bill needs work in three areas.

First, the legislation does not acknowledge a fundamental issue, namely that new resources are needed to protect and care for our nation's most vulnerable children. I am not alone in coming to this conclusion. Earlier this year, Governor Bush proposed an additional $1 billion in Federal assistance for State efforts to provide services to families in the child welfare system. I should point out that these proposed new funds were not contingent upon saving money in foster care or other programs dedicated to helping at-risk children, nor was the funding limited to only a few States.

Second, if we want to provide additional flexibility for State child welfare programs, it seems to me that it would be wiser to modify the existing waiver process rather than establish not one but two new demonstration programs. This point seems particularly salient when you consider that we have not yet fully evaluated the 30 child welfare waivers that have already been approved by HHS. These current law waivers are testing a variety of reforms, including providing more preventive services to families in or identified by the child welfare system.

In fact, my home State of Maryland has had three child welfare waivers approved by HHS, one designed to provide substance abuse services to the parents of at-risk children, another to promote certain kinship arrangements in which family members become permanent guardians, and a third to test managed care payment policies for children in foster care.

My final concern about this bill is that its first section amounts to an optional block grant for foster care and adoption programs in up to five States. I am worried that this could be seen as a Trojan horse which is ultimately aimed at block granting the entire foster care system.

As a member who supported the TANF block grant, let me say I do not support efforts to reduce the Federal presence in ensuring protection and permanency for abused and neglected children, particularly when about half the States are under some form of court order to improve their child welfare systems. Furthermore, it is worth remembering that this committee endorsed the idea of increased, not reduced, Federal oversight of the child welfare system when it passed the bipartisan Adoption and Safe Families Act in 1997.

Madam Chair, as we continue to consider how to promote our shared goal of improving the nation's child welfare system, I urge the committee to keep two general ideas in mind. First, we can and should increase State flexibility, but never at the expense of State accountability. And second, money spent helping at-risk children live safely with their families or become adopted into a loving home is money very well spent.

Finally, I want to thank you, Madam Chair, for postponing a markup on this legislation. As you pointed out in your opening statement, your intentions in holding this hearing is to establish a record rather than trying to move legislation in this Congress. Pursuing consensus and bipartisanship is worth waiting for, especially when enactment of a proposal that seeks anything less is very unlikely at the end of a Congressional session.

I thank you very much for convening this hearing and I also would like to acknowledge that we have a very distinguished group of witnesses today and I am very much looking forward to their help as we try to sort out these issues.

Chairman JOHNSON. Thanks very much, Ben, for your kind comments and for your work on this committee. We could not have produced so much good legislation without working together closely on a lot of things, and we have done that.

I would also like to thank Nick Gwyn for his good work throughout these two years and a special thanks to Ron Haskins, for whom this also is a last hearing. He has been an absolute stalwart advocate of children and children's interests for many decades, and Ron, we salute you.

[Applause.]

Chairman JOHNSON. If the panelists will come forward, please, William Waldman, Executive Director of the American Public Human Services Association; Wendell Primus, Director of Income Security, Center on Budget and Policy Priorities; Fred Wulczyn, Chapin Hall Center for Children in Chicago; Sharon Daly, Deputy to the President for Social Policy, Catholic Charities; Robert Geen, Senior Research Associate, Urban Institute; and the Honorable Kathleen Kearney, Secretary, Florida Department of Children and Families.

Some of you have testified before us in the past and we welcome you back. Others of you are new and we thank you for being here. Mr. Waldman?

**STATEMENT OF WILLIAM WALDMAN, EXECUTIVE DIRECTOR, AMERICAN PUBLIC HUMAN SERVICES ASSOCIATION**

Mr. WALDMAN. Thank you, Madam Chair. Mrs. Johnson, Mr. Cardin, members of the committee, I want to thank you again for the opportunity to be here a second time to testify on this bill and be with you.

I want to also sincerely express my appreciation for your ongoing commitment and persistence and obvious passion on this issue. The kind of bill you have introduced really, I think, is the solution for a lot of issues that are wrong with the system now that will permit the kind of flexibility with accountability that States require, and most importantly, result in better outcomes for safety and permanency for the kids that we care about.

I want to especially thank you also for the opportunity to work with you and introduce our idea on the transferability, which I believe is the second title or component of the bill. We are proud that that is in there.

The association that I represent, I think has a significant contribution to make to this debate. They are the folks that operate these programs 24 hours a day, seven days a week. They have the passion, the heartache sometimes associated with that responsibility. We represent them on a fully bipartisan basis and our conclusion is identical to the one that you discussed, that the current system of financing Federal child welfare services is fundamentally flawed because it rewards the outcomes that we want to avoid, that it pays for the deepest end of the system.

Just compare the over $5 billion I think we will have spent this last year for out-of-home care for 4(e) services as combined to the maybe $600 million that we spend on the other side of the equation for primary and preventive care.

We have done, as you know, some extensive work on this issue. We have had a two-and-a-half-year bipartisan task force. We have retained outside experts, at least one of whom is here today. We are proud to cosponsor a forum on the Hill with advocates, staff from both sides of the aisle to explore these areas and others. And ultimately, what this bill provides is the balance of two items that are necessary to make a difference, the flexibility for the State but no step back whatsoever in the accountability for the outcomes that have been specified and the regulations associated with that law and the maintaining of all the Federal protections that are in previous law for children. We think that is real important.

I am also very pleased with the modifications to the waiver process that are incorporated in this bill. Those are very, very important. If you think about the Medicaid program, the kind of waivers this moves towards is the kinds of waivers in the Medicaid program that transformed it from a program that was fixed in funding nursing homes, institutions, emergency rooms, and hospitals, and the proliferation of those waivers really enabled home and community-based services that not only helped contain costs, but more importantly resulted in better outcomes, senior citizens able to live their twilight years with their homes and families.

I was struck by your words at the last hearing where you kind of challenged us to come up with something more bold. I could not forget those, and I gave that a lot of thought. I want to just remention something I had mentioned the earlier time. In our proposal as an association, we had come up with an idea about delinking Federal 4(e) eligibility from the old AFDC standard of 1996. I understand when Congress passed that part of the law, it was kind of an agreement to go back and revisit that, as well, and I hope you would.

My view is, if you combine-our vision for this, to meet your challenge to bold, we would be to have a system where all children are covered by eligibility, number one, that the flexibility that you have incorporated into this bill be broadly expanded to no more than just a few, or ten—which is significant, but only ten—and you add in the accountability and the protections, and I think you have got a mix of a simple program, then, with uniform clear eligibility, clear outcomes and standards that would promote the kind of flexibility that results in innovation and creativity that I know you are after. So I think that might work.

I want to stop for a minute just to really commend the States for the progress that has been made. I know you are aware that just a couple weeks ago or so the Secretary announced the adoption of bonuses. As you know, there has been a great increase to 42 States. We had a 20 percent increase in the number of adoptions, up from about 37,000-something to 46,000. And one might legitimately ask, if States are doing so well, why do we require these additional amendments?

I would say to you, as someone who is a former State child welfare administrator and a commissioner, I think we have cleaned up

the backlog and I think we are on the right trail, but my view is in order to maintain, sustain, and expand this progress to keep children safe and move towards permanency, we need the kinds of flexibility that are inherent in your bill over time so that we are not back here in a couple years bemoaning problems that have occurred and backups in the system.

We do have several suggestions with respect to concerns on the legislation I would like to highlight briefly. One is a limitation in numbers. I could not agree with you more about the scoring of these proposals. I think no matter what, whoever scores these needs to realize the level 4(e) expenditures are going up. They have been going up and it is not unreasonable to, as the bill provides, suggest a baseline.

Two is that I am very concerned in the first title about the language around the maintenance of effort provision. I think that goes beyond the matching that is current traditionally required, that would be continued. It even goes beyond what is required in the maintenance of effort for welfare in the TANF bill, as well. From my own experience, I think that this provision might throw a serious wet blanket on States' desire to innovate because treasurers and governors will look at this broad provision, which will be very contentious in implementation, to identify what expenditure qualifies and what does not and, I think, serve to work against the purposes that we are trying to achieve, as well.

I would also suggest we could limit the use of the random assignment research in there, I know the bill encourages that we do that. Many States find that onerous. It is difficult. It takes years for the research. I am not saying we should not do that again, but I think what the Medicaid experience did to the 1915 series of waivers permitted a usually used type innovation not to have a random assignment in each and every State it is assigned to. I think it would promote more participation.

I think we need, I tend to agree, we need more investment in this field.

Chairman JOHNSON. Bill, we do have to wrap up because we have some people who have planes to catch.

Mr. WALDMAN. I surely will. I just want to close and again thank you. We know that our delinking proposal is difficult, it raises issues of geopolitical issues and formulas. We would offer ourselves to work with you, and I would say that if given the restrictions that you put out early in terms of the schedule and everything else, if we could do nothing else other than to expand the waivers that you provided this time, and revisit the other parts next time, I think we will have made some progress in this.

Thank you. It is a delight to be here again.

[The prepared statement follows:]

**Statement of William Waldman, Executive Director, American Public Human Services Association**

Chairman Johnson, Congressman Cardin, Members of the Subcommittee, I am william Waldman, Executive Director of the American Public Human Services Association (APHSA). I am pleased to once again have the opportunity to testify about reforming the child welfare financing system and legislation on flexible funding for child protection programs.

As the national organization representing State and local agencies responsible for the operation and administration of public human service programs, including child

protection, foster care and adoption, APHSA has a long-standing interest in developing policies and practices that promote improved performance by States in operating these programs for our nation's most vulnerable children and families. On a personal level, I've had a long career as an administrator of public human services, and served as a State child welfare director for part of my career.

On behalf of State human service administrators and child welfare directors, I want to take a moment to commend you, Madam Chairman, for your continued efforts to reform the child welfare financing system and for your commitment to safety and permanency for our nation's most vulnerable children. Your leadership and concern for this issue have been outstanding and we know how passionate you feel about ensuring that States have the needed flexibility to enable them to make continuous improvements to the system, while remaining accountable for the outcomes we all want. I also want to thank you and your staff for working so closely with APHSA over the past months on the language in the bill regarding APHSA's transferability proposal. We appreciate the opportunity to have input into such an important process.

Everyone involved with the child welfare system recognizes that States face serious challenges in the administration of child welfare programs. At the meeting on flexible funding that APHSA had the pleasure of cosponsoring with your office in May, there was broad consensus that the current Federal financing system disproportionately funds the deepest and often least desired end of the system-out of home care-that we are all striving to minimize in terms of lengths of stay and numbers of children. On the other hand, funding directed at activities to achieve permanency, safety, prevention and early intervention are comparatively limited. As a result, the system does not support the outcomes for children and families embraced in statute, regulation, and general public policy and practice. States need additional flexibility to better serve children and families, and at the same time are committed to maintaining accountability for outcomes and key protections for children.

APHSA has committed a great deal of time and resources to study and propose alternative financing structures that will result in meaningful child welfare reform. We convened a special task force in early 1998 to develop recommendations on restructuring child welfare financing. In July 1999, our National Council of State Human Service Administrators adopted a policy resolution supporting two proposals-transferability and delinking. As you have recognized, one of the most serious constraints for States is a Federal financing structure for child welfare that reinforces perverse incentives and that does not allow States the flexibility to implement programs and policies that would result in the desired outcomes for children.

Flexibility in the use of Title IV–E dollars must be afforded to States so that they can invest these dollars in the kinds of activities that are yielding success and go to scale with innovative programs that work-activities such as subsidized guardianship, performance-based contracting, post-adoption services, cross-system collaborative efforts with substance abuse agencies and juvenile courts-all of which are promoting more safe, stable and timely permanent arrangements for children, whether they be adoptions, reunifications or guardianships. The transferability option we developed as included in this bill allows States the option to reinvest IV–E funding into IV–B services, while retaining both State accountability and the entitlement structure. We think that this transferability proposal will enable States to make the kinds of investments in front end and post-placement services that are needed to protect children's safety and provide them with a variety of permanency options. Because flexibility for States is so important, we are disappointed that this option, which holds so much potential for providing States with the tools they need to make effective changes, is limited to only five States. We believe that any attempt to truly reform child welfare financing must give all States the opportunity to advance cutting edge child welfare programs and practices.

In addition to the transferability proposal, we believe that the following modifications to the current IV–E wavier process in the bill would go a long way towards adding flexibility to child welfare financing:

- Elimination of the limitation on the number of waivers,
- Ability to conduct Statewide demonstration projects,
- Elimination of the limitation on the number of States that can receive a waiver on the same topic,
- Elimination of the limitation on the number of waivers that may be granted to a single State,
- Conditional authority to conduct demonstration projects indefinitely,
- A streamlined process for consideration of amendments to demonstration projects requiring waivers and,
- The permissible use of historical baselines.

These are important modifications to the waiver process. Many States that have been interested in waivers as a tool for reform have declined to participate because of Federal implementation limitations, and we think that these provisions will go a long way towards fulfilling the original promise of the waivers that unfortunately has not been realized due to overly prescriptive and rigid Federal implementation.

Let me be clear that even while the system is in serious need of reform, States have made and continue to make tremendous strides, both as a result of the Adoption and Safe Families Act (ASFA) and due to individual State initiatives. Recent statistics have demonstrated significant State successes in increasing the number of adoptions of children from foster care. In fact, just two weeks ago Secretary Shalala announced that nearly $20 million in adoption bonuses, a program enacted through ASFA, will be distributed this year to 42 States, the District of Columbia, and Puerto Rico, for increasing the number of children adopted from foster care. The number of States receiving bonuses is up from 37 in 1999, with each State and the District of Columbia and Puerto Rico having qualified for funds for one or both years of the program. HHS reported that 46,000 foster care children were legally adopted in FY 1999, a 28 percent increase over the 36,000 adoptions in FY 1998 and a 64 percent increase over FY 1996's 28,000 adoptions. States have been so successful in increasing the number of adoptions that they actually earned over $50 million in bonuses. I would like to take a moment to point out that because only $20 million has been authorized for this purpose, States were only awarded a portion of the $50 million they earned. The Senate version of the Labor-HHS-Education Appropriations bill includes an amendment by Senator Mary Landrieu (D–La.) that increases the amount of the adoption bonuses to $56 million. I want to thank you Mrs. Johnson for your support on adoption bonuses in the past and ask for the continued support from members of the subcommittee for increased authorization and appropriations for adoption bonuses so that States will receive the rewards they deserve and have this promised funding to spend on services to children. In order to ensure that this improvement and innovation is sustained and expanded, we must remove barriers to optimal performance.

In response to your call at the July hearing for us to think more broadly and boldly on these issues, I would like to take this opportunity to expand a bit on APHSA's other proposal to reform child welfare funding-delinking IV–E eligibility from AFDC. Delinking eliminates the IV–E eligibility link to the old AFDC program, providing Federal matching funds for all children in foster care or receiving adoption assistance, rather than just covering those who are from poor families of origin. Good public policy calls for a Federal commitment to all children in foster care, as well as eliminating a complex and outdated eligibility determination process that is a costly and onerous administrative burden on States, and that takes time and resources away from serving children and families. This change would require a new funding scheme which has difficult and contentious geopolitical implications. APHSA would like to work with Congress and the Administration to craft a delinking proposal that would be equitable to States and enable a true Federal-State partnership.

While we are thankful for your efforts to reform the financing system, and appreciate your including the concept of transferability in your legislation, we have some concerns about particular aspects of the bill. In addition to concerns regarding the limit on the number of States that can participate in these demonstrations that I mentioned earlier, we have some additional concerns.

With respect to the consolidated grant option, I would like to note APHSA's strong objection to the proposed maintenance of effort requirement (MOE). The new mandate is quite different in design from the TANF block grant MOE. Let me be clear. We believe that in exchange for greater flexibility in the use of IV–E funds, it is reasonable to require States to maintain their historic State IV–E match. However, we believe that it is simply unjustified to require States to maintain their child-welfare related expenditures under TANF, Social Services Block Grant, and the Medicaid program and in hundreds of State or locally funded programs. The requirement is far too expansive and imposes a burden disproportionate to the flexibility that the IV–E block grant may provide. Inclusion of this MOE as part of this option may well have the effect of discouraging States from taking advantage of much-needed flexibility. We urge you to revise this requirement.

With respect to the provision requiring national evaluation as it relates to the two sets of flexible funding demonstrations, we are concerned that the encouragement of the use of random assignment will have the effect of limiting States' ability to pursue these demonstrations Statewide and will constrain full implementation across a State's caseload. The requirement for random assignment in the current waiver program has been significantly limiting, and, in fact, you seek to mitigate this in the Title II Waiver Modifications provisions. We urge you not to create the

same problem in these new demonstrations as you simultaneously address that problem in the current waiver program.

Many States have innovative ideas they are ready to pursue in child welfare and system reform. However, they will not be able achieve significant reform if they are not allowed the flexibility to make these programs reality. Significant restructuring of Federal child welfare financing is crucial for providing the child welfare system with the capacity it needs to be accountable in terms of the outcomes of safety and permanency that are now required by law, and flexibility in Federal financing would support the strides States are making toward improving the system.

But, increased flexibility alone will not be enough for States to reach desired outcomes for children. In addition to making investments through better spending of existing resources, I am convinced that States also need additional Federal investments in child welfare services. Both reinvestment and new investment are needed if we want to meet the increased demands, expectations and capacity needs these systems are facing. It is time for the Federal Government to fully share in the commitment of preventing child abuse, keeping children safe and moving them towards permanency as expeditiously as possible.

Unfortunately, given the limited amount of time on the Congressional schedule for the rest of this year and the unpredictability of the legislative process, it is unclear that comprehensive child welfare reform will be achievable this session. In order to better serve the children for whom they are responsible, the immediate needs of State public agencies must be addressed as soon as possible. I encourage you to help States now by implementing Title II of the legislation—modifications to the current waiver system, as well as the increased adoption bonuses as part of the Labor-H appropriations bill in this session of Congress.

We would like to work with you and all the members of the subcommittee to rise to your challenge of broader system reform. I also want to again extend the offer to work with you on legislation that would delink Title IV–E from AFDC, as it is long past due to address this complicated look-back provision established in the 1996 welfare reform law. The provision was meant simply to be a short term solution, and was enacted with the promise that it would be addressed at a later time. That time is now.

Madam Chairman, I want to thank you again for taking the lead on this important issue and we appreciate the opportunity to work with you.

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Chairman JOHNSON. Thank you very much. I am going to have to keep it at five minutes the first time through and then we will be able to come back through questions to have some discussion amongst panelists thereafter.

Wendell?

**STATEMENT OF WENDELL PRIMUS, DIRECTOR OF INCOME SECURITY, CENTER ON BUDGET AND POLICY PRIORITIES**

Mr. PRIMUS. Madam Chair and Congressman Cardin, thank you for the opportunity to testify on child welfare legislation. Let me just say at the outset that I agree wholeheartedly with the comments that Congressman Cardin made. I think you have established a good record and Ron, in particular, has been a joy to work with over the past year on child support legislation. I even noted that the New York Times said it is one of the five things that ought to get done this year. So I hope you can convince the other body to move forward on that important legislation.

Mr. CARDIN. I do not know whether that helps us or hurts us. [Laughter.]

Mr. PRIMUS. I appreciate your continuing efforts to call attention to the system and its shortcomings and the goals you have advanced in H.R. 5292. Federal funding patterns for child welfare services over the last 20 years clearly demonstrate the need for additional funding, as well as the need for additional flexibility. Only

28 percent of those children who meet the more stringent definition of child maltreatment, the harm standard in the third national incidence study, had been investigated by child protective services, and nationally, only half of those children actually receive services, and in some States that is as low as one-quarter of the cases where an investigation has substantiated an incidence of child neglect and that child receives services. I think that makes the case for additional funding.

I am pleased that H.R. 5292 includes the child protection provisions and it keeps the entitlement. And also, the other important protection is the strong maintenance of effort that you have attached to the consolidation of grants pilot. This MOB is essential to assure that overall funding for child welfare services does not decrease. The MOB language contained in your bill recognizes that every State's child welfare spending is a unique mix of Federal, State, and local funds. It recognizes that Federal funds may fluctuate from year to year. It gives States flexibility to count expenditures made by other agencies, such as substance abuse treatment or mental health.

I realize that this is a very sensitive issue with States, but under TANF, supplementation did happen, and not because any one official thought it was a good idea. The supplementation that occurred in Wisconsin under TANF did not happen because the governor proposed it. Rather, it happened in the give and take of the State legislative process and competition with other State spending priorities. And the additional provisions that require careful monitoring and evaluation of the impact of the pilots is also extremely important. I believe that the MOB provision that you apply to the consolidation of grants pilot should also be applied to the transfer of funds pilot.

Although I agree with the goals of H.R. 5292, I believe that a simpler and more direct way of providing additional funding to States would work much better. These pilots are really predicated on the assumption that the CBO baseline for mandatory 4(e) spending was growing too rapidly and many felt this growth would never materialize. In essence, both types of pilot projects were innovative attempts to take advantage of this budgetary situation and convert what were perceived by some to be bloated projections into real dollars for funding prevention services under child welfare. I could not agree more.

But while some of this growth may be excessive, States do have an incentive to constrain costs in 4(e). They match it. And I do not believe that States are intentionally placing too many children in 4(e). I also believe that the amount of money a State receives should not depend upon projections negotiated between Federal and State bureaucrats. These projections are likely to be wrong and probably will not reflect a State's true need for funding. And I think cost considerations should not guide decision making at the front lines. What is in the best interest of the child should be the primary criteria.

By fixing the amount of funds a State receives, it implies that States should bear all the costs of any additional children that need to be served, and frankly, State child welfare administrators

do not control entries into their system. They do have some extent over the length of time, but not the entry.

My primary argument is that a more direct and simpler method of providing additional funds to States—you could do it like you did under ASFA or setting up a pool of funds for States to compete—either of these approaches seem preferable to the funding mechanism in H.R. 5292.

I also think you need to do a comprehensive review of the entire system. Substance abuse is often a factor in cases of child neglect. I think an important component is the coordination between these two systems. I think you should also look at the bills that improve the capacity of courts.

And shortly after I became staff director way back in 1991, I was amazed to learn that 4(e) was not a universal program. If a child is a victim of abuse or neglect to such an extent that a State court declares that the child must be removed from the home, why should the Federal Government deny funding to States for those neglected or abused children? The States do not have that choice. And furthermore, it costs us money to make that administrative determination.

So in conclusion, Madam Chair, I strongly agree with your last statement at the prior hearing that we need to be bolder. I would urge that you develop a broad consensus on how the Federal involvement in the child welfare system should change. I would urge this subcommittee to work over the next several months, and your staff, to conduct a comprehensive review of the entire system to address concerns raised by this panel and at your hearing in July, develop a much bolder plan that revamps the Federal role in the child welfare system, increases Federal funds significantly, and then convince the new administration that this should be an important priority for Congress and the nation. Thank you.

[The prepared statement follows:]

**Statement of Wendell Primus, Director of Income Security, Center on Budget and Policy Priorities**

INTRODUCTION

Madam Chairman and Members of the Subcommittee on Human Resources:

Thank you for the opportunity to testify on child welfare legislation, specifically H.R. H.R. 5292, the Flexible Funding for Child Protection Act of 2000.[1] My name is Wendell Primus and I am Director of Income Security at the Center on Budget and Policy Priorities. The Center is a nonpartisan, nonprofit policy organization that conducts research and analysis on a wide range of issues affecting low-and moderate-income families. We are primarily funded by foundations and receive no Federal funding.

The child welfare system serves the nation's most vulnerable children. These are children who are neglected or abused by their parents. Unfortunately, substance abuse is often a contributing factor to this sad state of affairs. The workers at the front lines must confront these stark realities day after day and make tough decisions such as whether to remove a child from the home because the safety of the child is at risk, whether to reunite children with parents because the parent has made progress in once again being able to care for their children, and whether to terminate parental rights. These decisions in many instances must be ratified by a court system. I appreciate the work and wisdom of these front-line workers and ef-

[1] I want to acknowledge and thank MaryLee Allen of the Children's Defense Fund and Rutledge Hutson of the Center for Law and Social Policy for the significant contributions they made in the preparation of this testimony. However, neither they nor their organizations should be held responsible for the recommendations and analysis outlined in this testimony.

forts it takes by States and local governments to achieve a well-functioning child welfare system.

Madam Chairman, I also appreciate your continuing efforts to call attention to this system and its shortcomings, your leadership in important child welfare reforms over the years, including the recently enacted Foster Care Independence Act, and finally for the goals you have advanced in H.R. 5292. I am in full agreement that States need additional funding and flexibility to operate their child welfare systems, and that States should be able to receive Federal assistance for all children under their child welfare systems. Your leadership has helped us find new ways to keep children safe and move them to adoptive families.

I hope now that we can build on the recent bipartisan improvements made in child welfare and in child support as well. Therefore, I would urge the Subcommittee to wait until early next year to pass legislation and to develop a broad consensus on how the Federal involvement in the child welfare system should change. There is no compelling reason this legislation needs to be enacted this year. As I will outline below, a much more comprehensive review of the entire system is needed. More Federal funding of the child welfare system is needed. Both major Presidential candidates, particularly Governor Bush, have recognized this need. In light of the Federal budget surpluses, I would urge that this Subcommittee work over the next several months to conduct a comprehensive review of the entire system to address concerns raised by this panel and at your hearing in July, develop a much bolder plan that revamps the Federal role in the child welfare system, increases Federal funding significantly, and convince the new Administration that this should be an important priority for Congress and the nation.

## More Federal Funding and Flexibility Are Needed

Federal funding patterns for child welfare services over the last 20 years clearly demonstrate the need for additional funding as well the need for more flexibility. Currently, the Safe and Stable Families portion of IV–B is funded at $295 million, and the Child Welfare Services Program is authorized for $325 million but appropriations total only $292 million. CAPTA and the Community Based Family Resource Program add an additional $100 million. These amounts are all relatively small and have grown little in the past 20 years. Compare this to the $5.0 billion we spend on IV–E foster care and adoption payments, and related training and administrative costs, in fiscal year 2000.

The gap between out-of-home spending and prevention monies is huge and growing. For example, assuming that the two Title IV–B programs were level funded and targeted, the amount of Federal spending for prevention services (adjusted for inflation) will decline by 37 percent per child in IV–E while out-of-home spending will grow by 22 percent between 1989 and 2004 based on CBO projections. Rob Geen's work at the Urban Institute shows that for every $1 a State spends on prevention, child protective services and case management services, they spent more than $3 covering out-of-home placements, adoption, and administrative costs.[2]

There is evidence that there are insufficient services to children who need them. Only 28 percent of those children who met the more stringent definition of child maltreatment (the "Harm Standard") in the Third National Incidence Study had been investigated by child protective services agencies.[3] Recall Judge Kathleen Kearny's testimony before this Subcommittee on July 20th that of the 38 percent of child abuse hotline calls whose allegations were investigated and unsubstantiated, one-third were subsequently reported for new allegations of abuse that were substantiated. Nationally, only slightly more than half of those children whose cases are substantiated receive services beyond the investigation. This percentage varies widely by State but most States fall between 25 and 75 percent.

Such figures imply that in some States, the State provides additional services in only one-quarter of cases where an investigation has substantiated an incidence of child neglect or abuse. Many States lack the capacity to provide necessary front end services. This is not just a matter of not having the funding; some States do not have the service providers to offer services, particularly in the area of substance abuse treatment. These States will not be able to take advantage of the flexible funds until such capacity can be developed. H.R. 5292 does not help to create that capacity because no additional monies are available for capacity-building.

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[2] *The Cost of Protecting Vulnerable Children: Understanding Federal, State, and Local Child Welfare Spending,* The Urban Institute, 1999.

[3] *Third National Incidence Study of Child Abuse and Neglect:* NIS–3, National Center on Child Abuse and Neglect, September, 1996.

In his testimony before this Subcommittee on July 20th, Bill Waldman, Executive Director of the American Public Human Services Association, said that "the system needs additional investments in child welfare services [and] these investments come in two ways." The first is new investments, the second is "better spending of existing resources." He concluded that both are needed and I agree. Yet, the money for new investments should not be contingent on reduced caseloads and the timing of these two approaches in relation to providing additional child welfare services is critical. Redirecting resources will not be sufficient until we provide child welfare programs with additional resources for new investments.

Relative to other Federal-State partnership programs like child support, Medicaid or TANF, the Federal Government provides substantially less financing to the child welfare program. Based upon Census data, the number of children living with neither natural parent or adoptive parents increased from 1.8 million in 1989 to 3.0 million in 1998, a 67 percent increase. Only a small percentage of these children are currently being served under the child welfare system. I realize that not every child not living with either parent needs to be served by the child welfare system, but this fact does demonstrate the need for additional funding and raises questions about the extent and coverage of the child welfare system.

## PROTECTIONS, ENTITLEMENTS, AND MAINTENANCE-OF-EFFORT REQUIREMENTS IN H.R. 5292

H.R. 5292 is one way to provide additional funding and flexibility to the States administering the child welfare system. H.R. 5292 provides States more flexibility in the use of their IV–E funds so that they can provide more front-end services rather than spending money on out-of-home placements.

I am pleased that H.R. 5292 as introduced includes a number of provisions to help ensure that children get the quality care that you intend, and that Federal funding for child welfare is not diverted to other spending priorities. Regardless of the funding mechanism chosen, it is important that these provisions are included. I would like to highlight several provisions that have been significantly strengthened in the bill as introduced, and I appreciate the attention your staff has given to these important concerns.

### *Protections and Entitlements*

It is critically important to be clear that the protections and entitlements available to children under current law will be maintained in these new pilots and I believe that your bill does that. The existing Child Welfare Waiver Demonstration Program that you championed maintains both the protections and entitlement, and similar language is used in H.R. 5292.

### *Maintenance of Effort*

Another important protection in H.R. 5292 is the strong maintenance of effort (MOE) provision that you have attached to the "Consolidation of Grants" pilot. A strong MOE provision is essential to ensure that overall funding for child welfare services does not decrease once States have increased flexibility in the use of their funds. There is a broad consensus that child welfare funding should not be reduced given the unmet needs that remain. The MOE provision for the "Consolidation of Grants" pilot requires States to maintain total child welfare spending from all sources, Federal, State and local, and thus ensures that funding for child welfare services will not decrease during the operation of the pilots.

Before making a case as to why this same MOE provision should be applied to the "Transfer of Funds" pilot, let me emphasize several of its important characteristics:

- The MOE language recognizes that in every State child welfare spending is a unique mix of Federal, State, and local funds. By requiring the maintenance of Federal, State, and local spending, States are treated equitably in the effort they must make to ensure that dollars for children in the child welfare system are not cut back.
- The MOE language recognizes that Federal funds may fluctuate from year to year and specifically allows States to adjust their spending baseline when Federal child welfare spending is decreased.
- The MOE language gives States flexibility to count expenditures made by other agencies, such as substance abuse treatment or mental health agencies, on behalf of children and families in the child welfare system, when new investments are made by these agencies.
- The MOE language also gives States leeway in complying with the MOE requirement. It takes into account the fact that expenditures within a State may fluc-

tuate some from year to year and therefore only holds States accountable for maintaining their effort based on a two year rolling average.

• The MOE requirement gives State child welfare agencies leverage in budget discussions. The potential penalties created by the provision make it easier for States to maintain spending for child welfare and thus enhance the likelihood that the demonstration will enhance access to services and improve outcomes for children and their families.

If the Federal Government makes available more funding for child welfare, a State should not be allowed to spend less than it otherwise would have. In most cases, the baseline that would be agreed upon between the Secretary and the State would assume that the State is increasing State expenditures. The State should be required to maintain this level of effort. I realize this is a very sensitive issue; States and State officials take umbrage in requiring a MOE because there is an implicit assumption that the States would lower their own spending when the Federal Government increases their spending on a particular program -an assumption that they insist would not happen.

But under TANF it has happened, and not because any one official thought it was a good idea. The supplantation that occurred in Wisconsin under TANF did not happen because the Governor proposed it. Rather it happened in the give and take of the State legislative process and competition with other State spending priorities. A strong MOE requirement is needed because States have many other important spending priorities (e.g., education, transportation, and nursing homes), and extraneous forces can reduce State spending on child welfare services. A strong provision is critical to this bill because it gives States an important tool which will enable child welfare administrators to insure that spending on their program does not decline.

*Monitoring and Evaluation*

The addition of provisions in H.R. 5292 that require careful monitoring and evaluation of the impact of the pilots is also extremely important. It is essential that we know from the beginning what specific services and activities States plan to provide with these more flexible funds. You have required a description of services in States' initial plans, but also recognized that plans may change during the course of a demonstration and put a process in place for States to amend their plans when necessary. The national evaluation will provide useful information on how the evaluation has enhanced the availability and use of services as well as child safety, permanency, and well-being. I am very pleased with how these provisions have evolved.

## TECHNICAL CHANGES

Before moving on to a discussion of the bigger picture, I wanted to spend just a few more minutes highlighting a couple important questions about H.R. 5292 as introduced.

*Maintenance of Effort for the "Transfer of Funds" Pilots*

As I alluded earlier, I am very concerned that H.R. 5292 does not apply the same MOE provision to both of the pilots. I believe the MOE provision that applies to the "Consolidation of Grants" pilots should also be applied to the "Transfer of Funds" pilots. To participate in the Transfer pilots, a State should be required to maintain its overall level of spending for child welfare services. It should not be permitted to use the flexibility of this demonstration to supplant or reduce existing spending.

As drafted, the MOE provision that applies to the Transfer pilots in H.R. 5292 permits States to supplant current child welfare spending with their new flexible dollars and also allows States to reduce total spending on child welfare services if their foster care caseloads decline. Under the Transfer pilots, a State will negotiate an anticipated baseline of IV–E foster care maintenance and/or administrative spending. If the State submits claims totaling less than that baseline amount for IV–E foster care expenditures, it is permitted to use the "freed up" amount, the difference between the baseline and actual claims, for any child welfare services which help achieve the purposes of the bill.[4] However, to receive those "freed up" funds, the State must meet a MOE requirement.

It is not clear to me from the bill what the intention is behind the MOE requirement in the Transfer pilots. Does it require a State to maintain its State effort at the level that would be necessary to claim the full amount in the State baseline?

[4] The State must use the funds consistently with the plan filed as part of its application for the demonstration (subsection (c)(1)(B)), however, the State can amend this plan at any time as long as the amended plan is consistent with the provisions of the bill (subsection (d)).

For example, if its IV–E match is 50 percent, must it agree to keep State spending at a level that is at least equivalent to 50 percent of the total State baseline?[5] Or, alternatively, do States have the ability to spend only a portion of their "freed up funds" and as a result only maintain State funding at a level that would be necessary to match that amount of expenditures?[6]

While a correctly drafted provision that bases the MOE amount on the total State baseline, rather than the amount of funds the State receives, would hold State spending at the level anticipated in the baseline, it would not prevent the "freed up" dollars from being used to replace other State spending for child welfare services. For example, suppose a State negotiated a baseline of $100 million but had IV–E claims of $80 million. It could use the $20 million of "freed up" funds to pay for a home-visiting program or for a post-adoption services program previously funded with State dollars. This supplantation would lead to no net gain in the funds available to provide child welfare services, a result that seems contrary to the purposes of the bill.

If the intention of the MOE provision in the Transfer pilots is to give States the flexibility to take less than the full baseline amount (e.g. not all of the "freed up" funds), States may find themselves unable to take advantage of "freed up" funds. For example, a State may come to the end of the year and have $20 million in "freed up" funds, but be unable to convince the legislature to allocate the MOE funds needed to receive even a portion of those funds. The strong requirements and penalty provisions of the MOE requirement in the Consolidation of Grants pilots would offer much more leverage to States and increase the likelihood that the State maintenance of effort amount would be provided and the availability and use of services would be enhanced through the pilots. Thus, regardless of the intent behind the MOE provision of the Transfer pilots, I do not believe the provision sufficiently safeguards child welfare spending. As I mentioned earlier, I believe the MOE provision for the Consolidation pilots should also apply to the Transfer pilots.

However, if a decision is made to continue with a different MOE provision for the Transfer pilots, at a minimum, the provision should require States to maintain a level of spending equivalent to the State match for the total amount of State baseline and the provision should contain non-supplantation language similar to that in the Safe and Stable Families Program and the Chafee Foster Care Independence Program.

*Relationship Between TANF and Child Welfare MOE Requirements*

It is possible that some additional modifications may be needed in this MOE provision. For example, some concerns have been raised that this provision may effectively create an earmark within the TANF program for child welfare spending in those States that have already been spending TANF dollars on child welfare. We need to address this issue to ensure that States continue to have full flexibility in the use of their TANF dollars.

*Clarifying Activities for Which the Funds will be Spent in the Transfer Pilots*

As I have described earlier, we applaud the language in the Consolidation pilots that requires that the plan include a description of each activity for which any of the amounts would be expended. I recommend that same language be in the plan for the Transfer pilots, and expect that it was a technical error that it was not.

*Suter Language*

Under current law, the "Suter language" in the section on the Effect of Failure to Carry Out State Plan in the Social Security Act is in two places. I understand from conversations with Subcommittee staff that the removal of the Suter language from section 1130A of the Social Security Act was only an effort to remove the duplicative language in the Act and that there was no intention to remove the Suter language. The Suter language is retained in section 1123 of the Social Security Act.

## IS H.R. 5292 THE BEST WAY TO PROVIDE ADDITIONAL FUNDING AND FLEXIBILITY?

Although I agree with the goals of H.R. 5292, I believe that a simpler and more direct way of providing additional funding to States would work much better. Both the "Transfer of Funds" and the "Consolidation of Grants" pilots are predicated on

[5] If this is the goal, the language of the bill does not appear to accomplish it. The formula in section (c)(4)(C) allows the State to reduce the MOE amount below this level, although this appears to be a drafting error, rather than an intentional reduction.

[6] Regardless of the intention, the language in the bill seems to permit this flexibility and thus permit States to reduce overall spending on child welfare services.

the assumptions that additional Federal funding for child welfare was not politically possible, and that the CBO baseline for mandatory IV–E spending was growing too rapidly—many felt this growth would never materialize. In essence, both types of pilot projects were innovative attempts to take advantage of this budgetary situation and convert what were perceived by some to be bloated projections into real dollars for funding prevention services under child welfare. Accomplishing this under H.R. 5292 requires that projections be made for each State as to what its spending would be under IV–E and either allowing a transfer of some portion of mandatory spending to fund services or giving the State the monies it would have received under the projection and allowing it to be spent on a broader set of activities.

This mechanism is not ideal for several reasons:

• The political assumption that additional funds were not possible may no longer be correct.

• While some of the growth in IV–E caseloads may be excessive, more attention to placing children in safe and stable families is needed. Because States share in the cost of IV–E, States have some incentive under current law to lower their IV–E caseloads. I do not believe States are intentionally placing too many children in IV–E. However, States do not receive sufficient monies for service to prevent out-of-home placements, or sufficient monies to reunify families. This may lead to a greater number of children in out-of-home placement than necessary.

• The amount of money a State receives should not depend upon projections negotiated between Federal and State bureaucrats. These projections are likely to be wrong and probably will not reflect the States true need for funding. One method to determine the feasibility of a new financing approach is to examine how it might have worked during a historical period. Pretend you are in 1992 and you need to make projections of IV–E caseloads in 1994. Table 1 shows the average monthly number of children in foster care in 1986, 1990, and 1994 in selected States. How would one predict for each State the caseload three years into the future? (Projections of dollar amounts, which are required under H.R. 5292, would have difficulties similar to projecting caseload.) Clearly the projections would be based on more information than just these historic caseloads for two points in time, but this an important starting point. Look at the variation by State in the growth in the IV–E caseload between 1990 and 1994 relative to growth between 1986 and 1990. Arizona is a good example. Between 1986 and 1990, the caseload increased by 80 percent, from 481 to 866. A baseline calculated with these numbers would leave the State with substantially fewer funds per foster child; between 1990 and 1994 Arizona's caseload almost tripled, reaching 2,697. This State presumably would have had to revert back to current law if it had opted for the "Consolidation of Grant" stream. In contrast, in North Carolina, the caseload more than doubled between 1986 and 1990, and then leveled off between 1990 and 1994. If the baseline were based on caseload between 1986 and 1990, North Carolina would have come out substantially ahead in funding, and its investment in service dollars would appear to have been extremely successful. Finally, in some States even the direction of caseload trends changed during the same time period: in Maryland, for example, between 1986 and 1990 the caseload fell from 1,511 in 1986 to 803 in 1990; by 1996, it had more than quadrupled, reaching 3,553. How much funding is really needed is based upon many factors that are outside the control of State administrators—changes in the culture of courts and their decision-making process, economic factors in which studies show a strong correlation between child abuse and poverty, and changes in substance abuse patterns or the appearance of new drugs.

*Table 1*

Title IV–E Foster Care Average Montly

Number of Children for Selected States

| | 1986 | 1990 | 1994 |
|---|---|---|---|
| Arizona | 481 | 866 | 2697 |
| Delaware | 289 | 125 | 221 |
| Hawaii | 46 | 41 | 530 |
| Idaho | 435 | 138 | 280 |
| Maryland | 1511 | 803 | 3553 |
| Newe Jersey | 3840 | 2816 | 3715 |
| North Carolina | 1411 | 3561 | 3550 |
| Washington | 983 | 2751 | 1989 |
| Wisconsin | 2620 | 5562 | 4780 |

• These proposals raise fundamental problems which H.R. 5292 does not address. For example, how will future projections be made? What happens after the first three years? How does the Secretary or the State estimate growth under current law? If the "Consolidation of Grants" proposal is successful for the first three year period, how does the Secretary project growth for the second three years? Will those States continue to get substantial amounts of funding for prevention services based on their reduced caseloads? Or consider the opposite case. How will the estimates be done when the strategy, despite the best efforts of the State, has still resulted in substantial foster care growth?

• Cost considerations should not guide decision-making at the front line. The "best interests" of the child should be the primary criteria guiding decision-making. By fixing the amount of funds a State receives, it implies that States would bear all of the costs of any additional children that need to be served. This is not a true Federal-State partnership. I am concerned that we will pay States to lower foster care caseloads, not by the provision of additional preventive services, but by other mechanisms.

• Caseload reduction should not be our primary goal in the child welfare system. Caseload reduction in child welfare carries much greater risks than caseload reductions in TANF, because the effects of bad decisions are much more serious. The child welfare system has some very difficult decisions to make: a) Is the system removing children from parents when necessary; b) Are they being reunified when appropriate; c) Is the system terminating parental rights appropriately so adoptions can take place; d) When children are removed, are the alternative care arrangements appropriate—the use of kin-care, the use of very intensive institutional settings when needed, and finding the right foster care parents. These are only a few of the decisions that the system must make. I am concerned about creating a system where the financial incentives not to remove a child have been made even greater. The right decision in one set of circumstances is the wrong decision in a different set of circumstances.

I believe that the amount of Federal funds a State receives should not be based on a negotiation about budget projections between State and Federal officials. I know of no other instance where the amount of funding a State receives from the Federal Government is based upon a negotiation of what spending would be under current law. As shown above, these estimates are prone to large estimating variances and depend upon factors outside the administrator's control. There is a lot of guesswork in making State-by-State projections and the range of reasonable projections is huge.

Madam Chairman, I do believe the negotiating process over baselines anticipated by H.R. 5292 would result in getting substantial more Federal funding to the States involved in this demonstration. If I believe in more Federal funding for child welfare services, why make this case against your funding mechanism? I do not think this approach is sustainable and services do not automatically translate into lower caseloads. My primary argument is that there is a more direct and simpler method of providing additional funding to States. This could be done in any number of different ways. One approach is to provide the services dollars necessary under Title IV–B to implement ASFA, and letting the ingenuity of the States determine how these additional dollars will be spent.

Another approach is providing a significant pool of funds for competitive grant child welfare monies that would be awarded to States to determine if additional funding for services would allow them to better meet the goals of the child welfare system. I would require a small State match of 10 percent or so. This means State officials would have to go through some effort to get State approval. This approach could then study where the additional monies are spent and determine whether the goals of a child welfare program are better met.

Either of these approaches seem preferable to the funding mechanism outlined in H.R. 5292.

## THE NEED FOR A COMPREHENSIVE REVIEW OF FEDERAL FUNDING AND CHILD WELFARE PROGRAMS

Besides the need for significant amounts of additional funding and flexibility, there are several other important reasons why a more comprehensive review of the entire pattern and nature of child welfare financing is needed. As a recent Urban Institute study illustrates, funding today for children in the child welfare system is

scattered over a wide array of Federal programs.[7] Today, child welfare is funded by IV–B and IV–E programs, the Social Services block grant, TANF, Medicaid and the CAPTA programs. States make substantial different decisions about which kinds of children are funded from these different sources.

As I mentioned previously, substance abuse is often a factor in cases of child neglect and many States lack the capacity to provide front-end services, particularly in the area of substance abuse. Bills such as S. 2345 and H.R. 5081, which address child protection and substance abuse and the coordination between these two systems, need to be part of a comprehensive review.

There also are important bills that have been introduced in the Senate to improve the capacity of the courts to meet the new timelines for decision making in the Adoption and Safe Families Act that should be part of this package. The Promoting Safe and Stable Families Program, including the State Court Improvement Program, also has to be reauthorized next year, and that too will help increase the capacity of States to better support families and promote adoptions.

Beyond those suggestions, I believe a comprehensive review should result in recommendations that would include:

- Universal coverage of all children who are abused or neglected,
- Significant additional amounts of Federal dollars,
- Additional flexibility to States of where additional dollars should be spent,
- A reexamination of the interaction between child welfare and other programs such as TANF and juvenile justice.

*Universal Coverage of All Children Who Are Abused or Neglected*

Shortly after I became staff director of this Subcommittee back in 1991, I was amazed to learn that IV–E was not a universal program. I can understand why TANF, food stamps or the Medicaid programs should have a means-test. But if a child is the victim of abuse or neglect to such an extent that a State court declares that the child must be removed from the home, why should the Federal Government deny funding to States for these neglected or abused children? The States do not have such a choice and clearly have an obligation to provide services and assistance to these children. Furthermore, determining whether the parent would have been eligible for AFDC assistance under the rules that prevailed in July, 1996 costs significant administrative dollars. The Federal-State partnership would be stronger if the program were made universal. This might be one way of providing additional assistance to States. This aspect of the program should be reviewed.

In addition to a reexamination of which children are eligible for foster care payments, there needs to be a determination of what package of services these children should be provided through IV–E. I realize that open-ended funding of additional services may risk increases in Federal spending beyond what is politically feasible. This review should examine various options for reducing this risk. These options could include State matching rates, aggregate caps on spending for services, or limits on the time or amount of services provided per child.

*Interaction Between TANF and Child Welfare*

Many children today whose parents are no longer able to care for them are placed informally (sometimes formally) with grandparents or other close relatives. For these children, the traditional goals of a child welfare system may need to be modified somewhat.[8] Not all of these caretakers necessarily need assistance. But States need more flexibility in deciding how these caretakers should be treated. The use of TANF funds to finance child welfare services should be reexamined when many parents still need employment services and work supports such as child care to help them find and retain jobs, and when more assistance is needed to lift children out of poverty.

## CONCLUSION

In conclusion, I remember well what you Madam Chairman said at the last hearing and I strongly agree that we need to be bolder. Additional funds are needed to increase the capacity of the child welfare system to provide up-front services that allow children to remain safely in their homes, to be quickly returned if removal is necessary, and to move to adoption when appropriate.

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[7] *The Cost of Protecting Vulnerable Children:* Understanding Federal, State, and Local Child Welfare Spending, The Urban Institute, 1999.

[8] Rob Geen, "In the Interest of Chidlren: Rethinking Federal and State Policies Affecting Kinship Care," *Policy & Practice,* American Public Human Services Association, March, 2000.

I would urge you to move forward carefully, however, and to take the next several months to build broad consensus on how the Federal involvement in the child welfare system should change and to develop a much bolder plan that structurally revamps the Federal role in the child welfare system. We must re-examine which maltreated children, or children at risk of maltreatment, should be eligible for Federal support and what that support should look like. As I mentioned, I do not believe it makes sense to continue to tie eligibility for IV–E to the old AFDC standard and I think that policymakers and advocates, from both parties and from the Federal, State and local levels, should continue to discuss what the eligibility criteria for Federal support to vulnerable children and families should look like.

An important part of our bigger look at child welfare reform must be looking at the interaction between child welfare and other systems, like TANF and Juvenile Justice. Especially in TANF, we see many points in which the two systems overlap. Some of the children and families served are the same and the problems families on the rolls face, and their service needs, also are similar. In some States children with kinship caregivers who are receiving TANF funds are in the formal foster care system and in others they are not. We have to take a more careful look at issues like these as we move forward.

Chairman JOHNSON. Thank you. Dr. Wulczyn?

**STATEMENT OF FRED WULCZYN, PH.D., CHAPIN HALL CENTER FOR CHILDREN, CHICAGO, ILLINOIS**

Dr. WULCZYN. Madam Chair, members of the committee, thank you for inviting me here to speak today. My name is Fred Wulczyn. I am a research fellow at the Chapin Hall Center for Children at the University of Chicago, and for the past ten years I have been studying issues related to finance and child welfare. Most recently, I have worked in the City of New York helping Commissioner Scapetta and his staff design a system for financing services that blends positive incentives for providers of foster care with vigorous monitoring while protecting the entitlement for foster care.

That work has been praised by the court-appointed panel overseeing the child welfare reform in the City of New York. I mention this because my remarks today are based on the practical experience of helping a jurisdiction create the kind of financing system that your legislation speaks to.

Flexibility is an issue that will keep coming back to the Congress. History says as much. We have been dealing with the issue of flexibility for the last 35 or so years in various disguises. The dynamic, the reason why it keeps coming back has less to do with the tension between block grants and entitlements, as some would characterize the reason for its inevitable return, and has more to do with the issue of outcomes and the fact that there is increasing pressure on the States to achieve better outcomes for children and families.

The dynamic basically is the same as the tension between having responsibility but no authority. As States are pressed to be more accountable for the things they do for children and families, they are going to want to have control over the resources at their disposal to accomplish those objectives.

I think that the question of flexibility returning is important also because the longer it takes to deal with the question of flexibility, the more likely frustration will build so that less positive types of Federal legislation are more likely to pass, so that if we can act

now, proactively, I think we can avoid legislation that is less desirable.

Another issue that we are seeing is that in health care, as in child welfare, we observed over the last 20 years or so that the question of how services are purchased is as important as what services are purchased. The cost reimbursability rules that are in Federal law today sets a tone as to what services are purchased that invades all levels of State and local government and restricts the flexibility. By limiting how States are allowed to purchase care, we necessarily limit flexibility.

I think the legislation that is proposed accomplishes two very important things. First, it preserves the entitlement. I think there has long been an assumption that flexibility and entitlements are mutually exclusive policy concepts and I think that the various proposals that are included here, the waiver, the modified block grant, if that is a fair characterization, the transferability, adequately address the question of whether or not the entitlement can be preserved in the context of flexibility.

As I see it, what in effect the legislation accomplishes is that it establishes a floor below which Federal funding would not fall as opposed to a ceiling above which Federal fiscal responsibility could not rise, and those are fundamentally different ways to characterize the role of Federal financing.

Second of all, the law grants State flexibility. There are certain realities with respect to incentives. The first is that there is no such thing as an incentive-free system. So we do not want to push States into adopting flexible programs without carefully considering the issues of local context and how any given system of incentives would work.

Similarly, incentives have to be sensitive to time, place, and context. There is considerable variation in State performance, and within States county performance, and within counties provider performance. The idea that a one-size-fits-all response to this variation would be useful and constructive, I think is a somewhat tenuous assumption. States should be encouraged to adopt incentives that are appropriate for their local jurisdiction and the issues that they face and they are not uniform.

Finally, States are not equally equipped to use incentives. This is an issue of how well they are able to aggressively monitor and track outcomes. Clearly, performance is leveling off in that regard. States are more able to do that. But whether or not they can enter into vigorous systems of tracking outcomes is a developmental question. Over time, we can expect that to improve, but pushing States into a one-size-fits-all set of incentives, I think is a risky proposition from the Federal Government's perspective.

Finally, in effect, what we are dealing with here are issues about the efficient distribution of care and resources and outcomes will eventually be paired with the question of need. Flexibility is not an inoculation against the requirement that we focus on the issue of whether or not the basic commitment to meeting the needs of children is being met by the current Federal commitment. I think we will continue to expect, as Wendell suggested, that the issue of need and whether or not there is enough money to go around, even

with flexibility, is going to be a recurring theme, as well. Thank you very much.

Chairman JOHNSON. Thank you very much. Ms. Daly?

**STATEMENT OF SHARON DALY, VICE PRESIDENT FOR SOCIAL POLICY, CATHOLIC CHARITIES USA, ALEXANDRIA, VIRGINIA**

Ms. DALY. Thank you very much, Mrs. Johnson. I would like to, first of all, thank you very much for this opportunity to testify. I want to start with thanking the chair and Mr. Cardin for their extraordinary work on behalf of the Title XX social services block grant program this year. A billion dollars has come out of services for children because of those cuts and it is critically important that your efforts in persuading the Senate to restore that funding are successful, not only for children in the child welfare system, but for elderly and disabled people and other people in need. So I want to thank you for that.

I also think the record of the subcommittee on the Adoption and Safe Families Act, the fatherhood provisions, child support enforcement, has been extraordinary and I certainly hope that your efforts succeed before we all get to go home.

I have just come back from spending five days with about 700 of the Catholic Charities local direct services providers who gathered in Kansas City for our annual meeting and there is no issue in their view that is as important as reforming the child welfare and foster care systems. So we are very grateful for the attention that this issue is getting, but also grateful that markup of the bill is postponed until we have time to really think through all the implications of the bill.

Catholic Charities USA, as you know, represents 1,400 member agencies. We serve more than ten million people a year, about 90,000 children in residential care and foster care in our care, and so we have a big stake in this. Actually, from its very first work in 1727, Catholic Charities agencies have been caring for homeless mothers and children, people who have been abandoned by the system.

Mrs. Johnson said at the beginning of the hearing, our primary job is to see that States have the money to care for these children. Well, there is nothing more important than that. That is exactly right. That is why we are all here. How do we make sure that the States have the money to care for these children?

So, of course, I am very skeptical about any danger at all to the entitlement and am very glad that the chairlady is sensitive to that issue. I am very concerned, as Wendell Primus pointed out, that maintenance of effort provisions that are already in the bill be maintained and also added any time there is additional flexibility for the States.

At the bottom of the list of priorities in any State legislature is the children in the child welfare system, and there is nothing that is more dangerous than allowing the State legislatures to get off the hook with funding. So maintaining maintenance of effort requirements, making sure that the States have to invest, and making sure that the States meet requirements continue to be very important.

There has been a lot of talk here about State flexibility. Well, I represent the people who need flexibility the most and have absolutely none, the people who are faced with a family where there is terrible substance abuse, where there is neglect or abuse, and all of the options are bad—inadequately funded foster care with untrained parents, unsupervised homes, lack of treatment for the parents, lack of mental health services, lack of care for the children who are already so traumatized by the situations in their families. It is the workers who do direct services who have no flexibility.

I met recently with Jack Smey from Catholic Charities in Connecticut and Pat Johnson, who is the director in Hartford, and said, what can we do to fix the system? Should we have foster care review boards, as Mr. Grassley suggests? Should we change the reimbursement mechanisms, as Mrs. Johnson suggests? And they both said, as all the other Catholic Charities agencies in the country say, it is really a matter of more resources. How do we get more money into it?

And I would ask the subcommittee to not go with the assumption that we have to have a budget-neutral bill, that we have to restrict expenditures for foster care maintenance in order to get more services into prevention and keeping families together.

Foster care is terribly underfunded. Of course, it is not a great option to have children in foster care, but our foster care and residential care treatment programs typically do not even get a two percent increase per year in cost of doing business from their State legislatures. The amount of money to pay foster parents is so inadequate that it is very difficult to get qualified people to take care of these children. More and more States are putting very severely traumatized children in regular foster care instead of in treatment and residential care.

We may have fewer children coming into the system, and I am not sure that is right, whether the States are always going to be keeping families safe when they keep children out of foster care. You know, we are all very happy about the adoption bonuses. We all feel good that there are more kids who have been adopted. But when I heard that the District of Columbia was one of the States that got an adoption bonus, I was really shocked, because this Congress has heard incredible testimony over the past few months about the terrible, terrible deficiencies in the child welfare system in the District.

So when we devise new incentives and new funding mechanisms, we have to be careful we do not send a message we only care about adoption or we only care about reducing the number of kids in foster care. Sometimes foster care is the best place for a child. Very often, temporarily, at least, that is a good place for a child. So sending a message to the States that we are going to reward certain things and not others and not taking into account the total operation of a system is really a mistake, I believe.

I would also like to mention that we are strongly in support of a bill that Mr. Rangel and Mr. Cardin have introduced that would provide nearly $2 billion of additional resources to States for mental health and substance abuse treatment for the families of children in the child welfare system. Nothing could be more important. The States estimate that 80 percent of these families have sub-

stance abuse and mental health problems and very rarely do they get the right kind of treatment.

The way Medicaid provides reimbursement, and the way the substance abuse block grant program works, is that people are rotated in and out of short-term drug treatment and never really have addressed the underlying serious, dangerous mental health problems that those parents have, that substance abuse is really only a symptom. And until the Federal Government requires the States to change the way they reimburse and to make sure we have integrated mental health and substance abuse treatment and that it is available to those families, and not just to the moms but to the children who have been traumatized, we are not going to see children grow up healthy and safe. So I urge that that be included among your deliberations.

[The prepared statement follows:]

**Statement of Sharon Daly, Vice President for Social Policy, Catholic Charities USA, Alexandria, Virginia**

Good morning. My name is Sharon Daly, and I am the Vice President for Social Policy of Catholic Charities USA. I am pleased to testify today on behalf of our organization.

Catholic Charities USA is the nation's largest private network of independent social service organizations, working to support families, reduce poverty and build communities. Annually, our 1,400 member agencies provide services to over 10 million of the most vulnerable people in our country, including more than one million children. In 1997, Catholic Charities agencies provided more than 89,197 children with residential care, foster care and group home care.

Catholic Charities USA appreciates that this subcommittee, under the leadership of its Chair, Nancy Johnson, and its ranking minority member, Ben Cardin, is focusing on the question of resource distribution in the Federal child welfare system. With regular input from our Catholic Charities agencies across the country, Catholic Charities USA has long been an advocate for increasing Federal support for preventive services while ensuring State accountability for children's safety. However, while we agree that there must be more resources devoted to preventive child welfare services, we do not think the approach taken in H.R. 5292 is the right response.

Quite simply, this bill fails to address the most critical shortcomings of the child welfare system: inadequate Federal funding for child welfare services, insufficient Federal dollars allocated to the treatment of substance abuse and mental health problems suffered by families in crisis, and the failure of Congress to acknowledge the need to provide a range of social supports for poor families. This bill appears to approach the problem of inadequate resources by allowing States to move existing dollars from one urgent need to another. Catholic Charities USA shares the subcommittee's concerns that States need additional resources for preventive child welfare services. But in a time of unprecedented economic prosperity, we believe Congress should do more to heal families and protect our nation's children.

Today I will speak briefly about some of the components of H.R. 5292 and make some suggestions about where I believe Congress should be focusing its efforts in the 107th Congress. I would also ask permission to submit, at a later date, a more detailed analysis of H.R. 5292 for the record.

BLOCK GRANTS

H.R. 5292 provides for two new demonstration projects. Under the first, up to five States could receive all or a portion of their Title IV–E adoption or foster care funds as block grants. Currently, under existing law, in order to receive Title IV–E funds, a State must submit a plan that meets a number of detailed requirements outlined in Section 471 of the Social Security Act, including provisions to ensure children's health and safety that were recently enacted by the Adoption and Safe Families Act of 1997 (AFSA). Under H.R. 5292, however, it appears that to be eligible for a block grant, a State would no longer be required to meet the requirements of Section 471. Rather, a State would only be required to submit a plan that:

- Describes how the funds received under the block grant will be used;
- Makes the same assurances that States are currently required to make in their Title IV–B State plans pursuant to Section 422(b)(10) of the Social Security Act (for

example, a State must make assurances that it is operating an effective Statewide information system to track children in foster care and that it is operating a preplacement preventive services program for children at risk of foster care placement); and

• "Does not impair" a child or family's entitlement to benefits under the State's existing Title IV–E plan.

In addition, the bill includes a requirement that participating States maintain 1998 expenditure levels for the activities covered by the block grant.

H.R. 5292 would also allow participating States to delink eligibility for foster care and adoption assistance payments from the current income requirements. In other words, a State could make adoption assistance payments to any family that adopts a child, regardless of the income of the child's prior family.[1] States could elect to continue delinking these payments beyond the expiration of the demonstration project. Catholic Charities USA has always supported delinking foster care and adoption payments from the current income requirements, and we are pleased that such a provision has been included in the bill.

However, Catholic Charities USA has concerns about consolidating into a block grant Federal reimbursement for an activity as critical as the protection of our children. As we read it, the bill exempts States who participate in the block grant program from important Federal requirements which currently govern State foster care and adoption programs. Prior drafts of this bill required States to show that their use of the block grant funds would comply with the requirements of their Title IV–B or IV–E State plans. We are not sure why this provision was changed in the final bill. We believe that the States' record on child welfare issues and particularly on protection of children does not justify a relaxation of Federal standards in this area.

### TRANSFER OF TITLE IV–E FOSTER CARE FUNDS

H.R. 5292 proposes a second demonstration project specific to the foster care program. Under the "transfer" provisions, the bill appears to allow up to five States to retain the difference between the State's estimated Title IV–E foster care entitlement funds and the actual amount of its eligible foster care expenditures in a given year. In other words, if the State's eligible foster care expenditures in a given year are less than the amount which the Department of Health and Human Services and the State originally estimated that the State would need, the State can keep these "savings." We understand that the intent of this provision is to allow States to recapture these funds and use them for other child welfare purposes.

Under existing law, in order to receive Federal foster care payments, a State must submit a State plan which meets a number of detailed requirements, including provisions designed to ensure children's health and safety that were added by ASFA. Under this provision of H.R. 5292, to be eligible to participate in this incentive program, States must submit a plan which meets only those same requirements as are required of State plans submitted for the block grant proposal: the plan must describe how the funds will be used; States must make the same assurances as those required under Section 422(b)(10) of the Social Security Act for the State's IV–B plan; and States must not "impair" the child or family's entitlement to foster care payments. In addition, a State is required to maintain at least a certain level of foster care expenditures.

As noted above in our comments for the block grant provisions in this bill, Catholic Charities USA is concerned about relaxing the Federal standards that currently govern State foster care programs. Again, we note that prior drafts of this bill also required States to show that their use of Title IV–E funds would continue to comply with the requirements of their Title IV–B or IV–E State plans. We are not sure why this provision was dropped from the final bill. Further, we are concerned that this "transfer of savings" provision provides a disincentive for States to ensure that all children in need of foster care are placed in the foster care system. To ensure the protection of children, Catholic Charities USA believes States should be rewarded only when their activities and programs improve child welfare outcomes.

In addition, Catholic Charities USA is concerned that this provision sends an incomplete message to the States by directing incentives only at the foster care program. We are concerned that an unbalanced approach could have perverse results. For example, a participating State with an abysmal track record for the overall performance of its child welfare system could nevertheless receive additional funds under this proposal for controlling its foster care expenditures. It defies logic to re-

[1] Foster care payments may be delinked only if the State has submitted an application to block grant its foster care payments.

ward a child welfare system that improves in only one area, while failing overall in its mission to serve families and protect children.

### EXPANSION OF WAIVER AUTHORITY

H.R. 5292 would also expand the Department's authority to waive Federal requirements in order to allow more States to carry out more child welfare demonstration projects with greater flexibility.

Catholic Charities USA strongly supports the provision in this bill that would permit multiple States to pursue similar demonstration projects. However, Catholic Charities USA does not support a general expansion of the Secretary's waiver authority at this time. Current law already gives States the flexibility to pursue worthy demonstration projects, and we think that any generalized expansion of this flexibility would be premature and unnecessary. We understand that 22 States and the District of Columbia are operating demonstration projects under waivers from the Department. As these demonstrations are still in the early stages, it is too soon to know whether these projects are improving child welfare systems.

### LACK OF RESOURCES

Catholic Charities USA understands that the intent of H.R. 5292 is to allow States to retain unspent Title IV–E entitlement funds so that these funds can be spent for child welfare purposes and not end up back in the Federal treasury. We appreciate the intent behind this bill, and thank the subcommittee again for focusing on the issue of insufficient resources for State child welfare systems. However, we question whether this bill needs to include exemptions from current Federal requirements in order to allow States to keep unspent adoption and foster care funds.

I think we all recognize that in order to improve child welfare services and outcomes, Congress must commit to significant increases in funding for child welfare programs. Although this bill may allow States to hold on to more of the allotted Title IV–E dollars, real reform of the child welfare system is not possible without substantial additional Federal resources. As I stated earlier in my testimony, Federal budget surpluses have provided us with a window of opportunity to accomplish significant reforms in the existing child welfare system. Catholic Charities USA stands ready to work with the subcommittee to accomplish this critically important goal.

And when I talk about real reform of the child welfare system, I am not just talking about more money for Title IV–B. One of the most critical problems affecting the child welfare system is the lack of comprehensive substance abuse and mental health treatment for families. Our best hope for securing a safe and happy future for our children is to appropriate the resources necessary to heal and preserve broken families. The States estimate that over two-thirds of parents involved in the child welfare system need substance abuse treatment, yet existing treatment resources meet less than one-third of that need.[2]

In addition, Catholic Charities agencies serving these families are convinced that at least 80 percent of parents with persistent substance abuse problems are also suffering from serious mental health disorders. We have found that integrated mental health and substance abuse treatment programs are rarely available. Because treatment for substance abuse and mental health disorders are typically offered through separate programs, with separate reimbursement methodologies and program requirements, it is virtually impossible for any single provider or program to offer comprehensive, integrated substance abuse and mental health treatment.

For example, last weekend at the Catholic Charities USA annual conference, we heard testimony from the Catholic Charities agency in Omaha about their substance abuse program. Catholic Charities of Omaha runs the Omaha Campus for Hope, the largest provider of addiction recovery services in the State. To cobble together the appropriate treatment for persons suffering from substance abuse and mental health disorders, the Omaha program must often refer clients back and forth between different programs. When their clients have maximized the treatment resources available in one program, they are transferred to another program (which often means a different site, a new provider, and different program requirements). They told us that the experience was enough to make a healthy person "schizophrenic," and that, all too often, troubled clients and overextended staff are unable to negotiate the system.

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[2] Child Welfare League of America, *Alcohol and Other Drug Survey of State Child Welfare Agencies* (1998).

The problem is not just a lack of resources overall devoted to substance abuse and mental health treatment, or a lack of consistent payment methodologies and requirements. Most treatment programs are predicated on a single adult model and fail to address the complex problems of parents. Parents require treatment programs that wrap services and healing strategies around the particular challenges of raising a child. They need special parenting classes and support, and their children need counseling for potential emotional or mental health problems.

In other words, comprehensive treatment means caring for the entire family. Comprehensive treatment also means long-term care that extends from 12 to 24 months, rather than "drive by" treatment programs that drop patients after only a few weeks or months. And comprehensive care also means including mental health services as a key component in the recovery process.

There is evidence that substance abuse treatment improves children's futures by healing families. In 1995, the Center for Substance Abuse Treatment published findings from a study of its grants administered through its Women and Children's Branch. They found the following: [3]

• 75 percent of the mothers who completed their treatment programs remained drug free; and

• 40 percent terminated or reduced their receipt of welfare.

Of the mothers' children in treatment:

• 65 percent were returned from foster care; and

• 84 percent who participated in treatment with their parents improved their school performance.

We need look no further than our own back yard for a compelling example of how real, comprehensive mental health and substance abuse treatment for families works and keeps families together. In Anacostia, the Center for Mental Health is an 18-month substance abuse treatment program for mothers and their children that focuses on the integration of treatment and mental health services. The Center was started in 1989 with a $2.8 million grant from the Center for Substance Abuse Prevention's Pregnant Postpartum Women and Infants program and is a true success story: [4]

• Of the mothers who stay in treatment for the initial three months, 90 percent of them successfully graduate from the program;

• All graduates of the Center for Mental Health exit the program with placements in job training or are employed in financially stable jobs;

• 87 percent of the children of the mothers in treatment have been reunified with their parents (7 out of 8); and

• 100 percent of the children have made progress in overcoming developmental delays.

In addition to this program, many Catholic Charities agencies have begun to establish treatment programs that treat the entire family and address both substance abuse and mental health needs. We need to devote more Federal dollars to encourage the development of programs like this across the country. We also need to make changes in Medicaid and in our Federal alcohol and substance abuse treatment programs to encourage States to develop common payment methodologies and program requirements in order to make this comprehensive treatment possible. If we devote time and resources to this issue, I am confident that we will see the effects in improvements in our child welfare systems and outcomes for children.

I also would like to mention a related bill introduced in this Congress that deserves your support. Senators Olympia Snowe, John D. Rockefeller IV, Mike DeWine and Christopher Dodd have introduced a bill that would provide additional resources for families in crisis. S. 2435, the Child Welfare/Alcohol and Drug Partnership Act of 2000, would authorize $1.9 billion in grants to the States over five years to address the connection between substance abuse and child welfare. We have recommended that the bill also provide incentives for States to link child welfare, substance abuse treatment and mental health treatment agencies. Our concern is that, without Federal incentives, States are unlikely to develop comprehensive, integrated family-based treatment programs at any time in the near future. We hope the subcommittee will consider proposals to provide new funds to the States for family-centered substance abuse and mental health treatment.

Finally, we must acknowledge that we will not see dramatic improvements in outcomes for children and families until we address the range of problems faced by poor families—problems such as lack of affordable housing, lack of reliable and af-

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[3] See Center for Substance Abuse Treatment, *50 Strategies for Substance Abuse Treatment* (1997).

[4] Center for Mental Health, Fact Sheet on Outcomes for Parents and Children. For more information, please contact Dr. Johanna Fuhrman at 202–889–5255.

fordable child care, and insufficient resources for respite care and other family support services. A homeless family that cannot move out of a shelter because there is no affordable permanent housing for them will never be stable, no matter what improvements we make to the child welfare system. I recognize that matters like increasing the supply of affordable permanent housing are beyond the jurisdiction of this subcommittee. But there must be some way that the Federal government can encourage States to help families in the child welfare system access the support services they need to provide for their children. Catholic Charities USA looks forward to working with this subcommittee, and with other relevant subcommittees, to enact a comprehensive package of reforms which will truly make a difference for the most vulnerable members of our population, our children.

Thank you for the opportunity to speak with you this morning. I would be happy to answer any questions you might have.

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Chairman JOHNSON. Thank you. Mr. Geen?

**STATEMENT OF ROBERT GEEN, SENIOR RESEARCH ASSOCIATE, URBAN INSTITUTE**

Mr. GEEN. Madam Chair, members of the subcommittee, thank you for the opportunity to testify this morning. I would like to make three points this morning about the need for greater funding flexibility and content of the bill that is before the subcommittee.

First, the existing Federal funding structure for child welfare stifles innovation. Greater funding flexibility will allow States to experiment with new service delivery approaches that are more in line with the child welfare goals of improved child well-being, child safety, and timely permanency.

Second, providing States with greater funding flexibility, just not diminish the need for additional funding for child welfare services.

And third, while addressing current problems in the existing financial incentives, the proposed flexible funding legislation itself creates unintended and undesired financial incentives for States.

Let us start by looking at what are the limitations of the existing financing structure. As has been mentioned by several people, Federal child welfare funds are disproportionately allocated for foster care with relatively little Federal funding available for prevention. But the imbalance is even greater than the difference between Title 4(e) and Title 4(b). Based on the results of a recent Urban Institute survey, in State fiscal year 1998, the States expended $707 million in Federal funds for prevention compared to $4.5 billion in foster care. But with their own State funds, they spent $3.8 billion on foster care, only $609 million on prevention services.

With a cap on Federal funds for prevention and an open-ended entitlement for placement, many researchers and advocates have noted that States have little financial incentive to reinforce the child welfare goals of keeping families together and ensuring timing permanency of children removed from their homes.

In practice, however, I have seen no evidence to suggest that worker decisions are influenced by whether a child that needs to be placed in foster care or needs to be unified is 4(a) eligible. Rather, I think the research suggests that the more fundamental problem is that given the limited Federal funding for prevention, many child welfare agencies have developed few alternatives to foster care. States appear reluctant to put forth their own funds on the hope that they might reduce foster care placements and costs in

the long run, since States do not get to retain the Federal funds that are saved. In other words, the current financing structure reinforces the status quo and limits the innovation that States can do.

Will flexible funding lead to better outcomes for children and families? We do not know. The ability of flexible funding to lead to better outcomes is predicated on the answer to two questions. One, are there children in foster care who do not need to be? Certainly, child welfare officials and advocates think so, and it is true that many child welfare agencies have minimal placement prevention, reunification, and after-care services.

There is also testimonial evidence from workers that they currently place children in foster care that they would not have had services been available to safely maintain them in their own homes. However, there is limited and very mixed research evidence on the success of interventions to prevent placement, speed up permanency, and avoid recurrence of foster care. This may be due to the fact that innovative programs are often limited in scope, given the minimal resources available for such services.

The second question is, can child welfare workers correctly identify those children and families that can benefit from prevention services? Research on the effectiveness of existing risk assessment tools and instruments is also limited and mixed. Moreover, research to date has focused on the ability to assess risk if no intervention is offered rather than a specific intervention that might be implemented.

The lack of documented success of existing prevention programs or risk assessment does not negate the need for flexible funding. Indeed, if the child welfare is ever going to move forward and determine what types of interventions work, agencies need the flexibility to fund and test different program models. The proposed legislation does include funding for research that should help ensure that we document the lessons learned from these demonstrations.

Does flexible funding diminish the need for additional funds? No. There is abundant evidence that the existing capacity of child welfare agencies is insufficient to meet the demands placed on them. For example, caseload sizes in almost all child welfare agencies exceed professional standards, in many agencies by 100 percent or more. In recent case studies done by the Urban Institute, many child welfare officials noted that insufficient capacity has led their agencies to turn away families they would have served in the past.

Without additional funds, many States may be unwilling to take the financial risks associated with attempting to reduce foster care. Consider the fact that many States are currently using significant amounts of flexible funds, such as Title 4(b), social services block grant, and TANF to cover foster care expenses in addition to prevention.

H.R. 5292 would go a long way toward addressing the problems caused by inflexibility of the existing Federal child welfare financing structure. However, while the bill addresses some of the current problems in existing financial incentives, it may provide States with some new and different undesired financial incentives, and I want to mention a couple.

The bill provides an incentive for States to reduce their foster care caseloads but not necessarily by investing more in prevention services. For example, if a State receives a block grant for foster care but an open-ended entitlement for adoption, the State might have the financial incentive to make adoptive placements before making reasonable efforts to reunify children.

Similarly, the bill could negatively affect kinship foster parents as many States will have a financial incentive to get them off their foster care caseloads, reimbursing them instead with TANF rather than foster care, as foster care payments are much higher.

In addition, States may simply have an incentive to apply for the demonstrations so that they do not have to be burdened by applying the income requirements required under 4(e) eligibility determination. As Mr. Waldman mentioned, the bill could go further by eliminating the income determination for all States rather than just permitting this for the five States that are selected for demonstration. Thank you.

[The prepared statement follows:]

**Statement of Robert Geen, Senior Research Associate, Urban Institute**

Madam Chair, members of the Subcommittee, thank you for this opportunity to discuss with you some of the issues raised by the "Flexible Funding for Child Protection Act of 2000."

I am Robert Geen, a senior research associate at the Urban Institute, where my research focuses on child welfare issues. Based on our past four years of research on child welfare financing, I would like to make three points about the need for greater funding flexibility and the content of the bill that is before this Subcommittee.

- *First:* The existing Federal financing structure for child welfare services stifles innovation. Greater funding flexibility will allow States to experiment with new service delivery approaches that are more in line with the child welfare goals of improved child well-being, child safety, and timely permanency.
- *Second:* Providing States with greater funding flexibility does not diminish the need for additional funding for child welfare services.
- *Third:* While addressing current problems in existing financial incentives, the proposed flexible funding legislation may create new unintended and undesired financial incentives for States.

*What limitations of the existing financing structure can flexible funding address?*

Federal child welfare funds are disproportionately allocated for foster care. Relatively little Federal funds are available for preventive services including services to prevent child abuse and neglect, services to prevent foster care placement, and services to prevent recurrence of abuse and neglect. But the imbalance is even greater than the differences between title IV–E (which supports foster care) and title IV–B funding (which supports prevention). Based on the results of a recent Urban Institute survey, in State Fiscal Year (SFY) 1998, States expended approximately $707 million in Federal funds for preventive services compared to $4.5 billion on foster care. Moreover, States spent $3.8 billion of their own money on foster care but only $609 million on preventive services.

With a cap on Federal funds for prevention and an open ended entitlement on placement expenses, many researchers and advocates have noted that States have little financial incentive to reinforce the child welfare goals of keeping families together and ensuring timely permanency of children removed from their homes. In practice, however, I have seen no evidence to suggest that worker decisions on whether to place a child in foster care or whether to reunify a family are influenced by whether the child in question is IV–E eligible.

Rather, research suggests that the more fundamental problem is that given the limited Federal funding for prevention, many child welfare agencies have developed few alternatives to foster care. States appear to be reluctant to put forth their own funds on the hope that they will reduce foster care placements and costs in the long-run, since States do not get to retain the Federal foster care dollars that are saved. In other words, the current financing structure reinforces the status quo and limits innovation. For example, assume that a State estimates that it will cost $10,000 for

it to maintain a child in foster care, but that the State could prevent the placement if it spent $8,000 on intensive services. If the child is IV–E eligible and the State's Federal matching rate is 50 percent, than the cost of the foster care placement to the State would be $5,000. Thus, to prevent the foster care placement, the State would need to invest an additional $3,000.

*Will flexible funding lead to better outcomes for children and families?*

We do not know if flexible funding will lead to better outcomes for children and families. The ability of flexible funding to lead to better outcomes for children and families is predicated on the answers to two questions:

1. Are there children in foster care who do not need to be, i.e., are their children that could have avoided placement or that could return home if additional services were available, or could additional services prevent recurrence of foster care placement?

Certainly child welfare officials and advocates think so, and it is true that many child welfare agencies have minimal placement prevention, reunification, and aftercare services. There is also testimonial evidence from workers that they currently place children in foster care who they would not have, had services been available to safely maintain them in their own homes. However, there is limited and mixed research evidence on the success of interventions to prevent placement, speed up permanency, and avoid recurrence.[1] This may be due to the fact that innovative programs are often limited in scope given the minimal resources available for such services.

2. Can child welfare workers correctly identify those children and families that can benefit from placement prevention, reunification, and/or aftercare services?

Research on the effectiveness of existing risk assessment tools and instruments is also limited and mixed.[2] Moreover, research to date has focused on our ability to assess risk to a child if no intervention is offered rather than assessing risk given a specific intervention.

The lack of documented success of existing prevention programs or risk assessment does not negate the need for flexible funding. Indeed, if the child welfare community is ever going to determine the types of interventions that work, agencies need the flexibility to fund and test different program models. The proposed legislation does include funding for research that should help ensure that we document lessons learned from the demonstrations.

*Does flexible funding diminish the need for additional funds?*

Flexible funding does not diminish the need for additional funds. There is abundant evidence that the existing capacity of child welfare agencies is insufficient to meet the demands placed on them. For example, caseload sizes in almost all child welfare agencies exceed professional standards, in many agencies by 100 percent of more.[3] In recent case studies of State child welfare agencies conducted by the Urban Institute, many administrators reported that insufficient capacity has led their agencies to turn away families they would have served in the past.

Without additional funds, many States will be unwilling to take the financial risks associated with attempting to reduce foster care caseloads. Consider the fact that many States are currently using significant amount of flexible funds such as title IV–B, Social Services Block Grant (SSBG), and Temporary Assistance for Needy Families (TANF) to cover foster care expenses. In SFY 1998, States expended approximately $87 million of IV–B funds, $356 million from SSBG, and $124 million from TANF for foster care, and $161 million, $298 million, and $59 million on prevention respectively.

HR 5292 would go a long way toward addressing the problems caused by the inflexibility of the existing Federal child welfare financing structure. However, while the bill addresses some of the current problems in existing financial incentives, it may provide States with some new and different undesired financial incentives.

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[1] See, for example, "Gomby, D., Culross, P., and Behrman, R. "Home Visiting: Recent Program Evaluations—Analysis and Recommendations," *The Future of Children,* Sping/summer (1999); Schuerman, J., Rzepnicki, T. & Littell, J. *Putting families first: An experiment in family preservation.* New York: Aldine de Gruyter (1994); Rossi, P. "Reviewing progress in assessing the impact of family preservation services." *Children and Youth Services Review,* 16, 453–457 (1994); Littell, J. and Schuerman, J. *A Synthesis of Research on Family Preservation and Family Reunification Programs*. Office of the Assistant Secretary for Planning and Evaluation Department of Health and Human Services. (1995).

[2] See, for example, Wald, Michael S. and Woolverton, Maria. "Risk Assessment: The Emperor's New Cloths?" Child Welfare 69; 483–511 (1990).

[3] Petit, M. and Curtis, P. Child Abuse and Neglect: A Look at the States. Child Welfare League of America, CWLA Press: Washington, DC (1997).

• The bill provides an incentive for States to reduce their foster care caseloads, but not necessarily by investing more in preventive services. For example, if a State receives a block grant for foster care funds but retains the open-ended entitlement for adoption assistance, the State may have a financial incentive to make adoptive placements before making reasonable efforts to reunify children with their families. Similarly, the bill could negatively affect kinship foster parents, as States may have a financial incentive to move them off their caseloads and support them with TANF rather than foster care payments which are considerably higher.

• In addition, States may have an incentive to apply for a demonstration, not to use funds more flexibly, but simply to be relieved of the burden of applying income requirements in determining IV–E eligibility. The bill could eliminate the income determination for all States rather than just permitting this for the 5 States that are selected for demonstrations.

Thank you again for this opportunity to testify and I am happy to answer any questions you may have.

The views expressed are those of the author and do not necessarily reflect those of the Urban Institute, its trustees, or its sponsors.

Chairman JOHNSON. Thank you very much, Mr. Geen. Ms. Kearney?

**STATEMENT OF HON. KATHLEEN A. KEARNEY, SECRETARY, FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES**

Ms. KEARNEY. Good morning. It is so nice to see all of you again. I am Judge Kathleen Kearney, the Secretary of the Florida Department of Children and Families. I would like today to urge you to pass at least the waiver portion of H.R. 5292. I feel that it is critical. I would like to today address my remarks predominately to the waiver aspect of the legislation that you have pending and I will tell you why I think it is absolutely critical. I do not think kids can wait at this time any further.

What I would like to do is basically point you to the legislation and in my written testimony you will see this written on page five, the issues pertaining predominately to the waiver. What this legislation will do at the front lines is critical. First, it will replace the current tightly controlled experimental design requirements with less rigid evaluation methods that nonetheless will still hold States accountable, which is critical. Obviously, I think it is very important that we manage by data, but right now, under the current waivers, what goes with that is such a strong administrative burden that many States are contemplating whether or not the waivers are even worth it. So I think it is important that this legislation advance that cause.

Additionally, this legislation is designed to streamline the application process for the waivers. Florida first applied for a waiver in April of 1998. We did not hear from the administration until July of 1999, and by then, the implementation of ASFA in Florida had taken place and it required a complete change to the waiver. We had to go back to ground zero. Under this current legislation, it envisions that that would not take place, that you could resubmit immediately and you would not lose any time. We are still to this day now waiting for approval to implement the amended waiver. It has now been two-and-a-half years and our waiver has not yet been put on the streets.

This legislation also will allow States to broaden the size and the scope of their waivers. It will extend the waivers beyond 2002, par-

ticularly for those programs that are successful. To terminate them right now would not be appropriate. It also will eliminate restrictions on replicating all features of waivers that are found in other States and eliminate the number requirement, which I believe Mr. Waldman also spoke about. This is absolutely critical.

Right now in the State of Florida, we have a Clark Foundation grant in Jacksonville that deals with prevention. If I was able to successfully get another waiver, I could expand that program and I believe it would be highly successful. I would also seek a waiver in order to replicate what the State of Illinois is currently doing with their guardianship waiver. That is so needed at this moment, this very moment, in Miami, where so many children are placed with relatives and we desperately need that flexibility.

Also, I believe that if you allow the expansion at this time of the waiver portion, it will lead to a gateway for further flexibility. I understand the concerns that have been expressed here today. You will see in my written testimony some concerns about the maintenance of effort requirement. While I believe that States do need to put in their fair share, there are concerns about the fact that States will bear the cost of that inflation. So I think that is a critical issue that you should look at.

But I would strongly urge this subcommittee to look at passing this year the waiver requirement. Kids cannot wait. I say that very mindful that one of my colleagues on the court in Gainesville has asked me to personally review a case of a child who has been in foster care and is about ready to age out at 18. She has been in foster care for five years. She has been in some incredibly therapeutic placements that did her no good. She has been in regular foster care. And right now, the court is very concerned that she will have no place to go on her 18th birthday but the adult mental health system and we have done her no service.

As I speak here today, my district administrator in Palm Beach County is in front of a grand jury investigating two deaths in Palm Beach County, two deaths that, frankly, could have been prevented had monies been put in the front end of the system to prevent child abuse and, frankly, to have that child be maintained safely in an intact family, and also address the mental health and substance abuse issues of that family. That did not occur and these children are dead.

So I encourage you strongly to please look at the waiver requirement this year. Kids cannot wait. Thank you.

[The prepared statement follows:]

**Statement of Hon. Kathleen A. Kearney, Secretary, Florida Department of Children and Families**

Good morning Madam Chair and members of the Human Resources Subcommittee. My name is Judge Kathleen A. Kearney and I am the Secretary of the Florida Department of Children and Families. Thank you for inviting me to once again address the Subcommittee on an issue of utmost importance -protecting our Nation's children from abuse and neglect. I want to applaud you, Madam Chairman, for your leadership and steadfast commitment to developing legislation that will benefit the children and families served by the child welfare system. Since I have only recently seen the final version of H.R. 5292 and I have not completed a thorough review and analysis, I will speak only in the broadest terms with respect to the legislation.

After seeing the child welfare system both as a judge and as Secretary in Florida, I have reached several conclusions. First, the current system of child welfare financing is broken and does not support the outcomes for children and families that are

embodied in Federal and State statute nor does it model social work "best practices." Second, States need greater flexibility over available resources to make needed improvements. Third, the magnitude of the crisis we face everyday, requires a bold solution with a broad base of support. And, finally, the Title IV–E waiver program could be modified to provide much needed relief to States while maintaining an essential entitlement. I realize modifying demonstration waivers will not end the discussion about the need for greater reform but it is a step that will support States in significant ways.

Under Florida's legislative mandate to transition to community-based care by January 1, 2003, the Department of Children and Families is committed to working in partnership with local communities to ensure safety, well-being and self-sufficiency for the people we serve. We share a common vision for our child protection system:

- The safety of children at all times will be a foremost concern, and permanency resolution in accordance with a child's sense of time will be the system's standard;
- Services will be provided by comprehensive, community-based networks of providers who are equipped to manage and deliver all needed services to meet the needs of child abuse and neglect victims and at-risk children and their families;
- Resources will be efficiently and effectively managed to achieve better outcomes for children, with the ultimate goal being child safety and permanency within a twelve-month timeframe;
- Services will be coordinated across systems to maximize limited resources and ensure a single, unified case plan, managed by a primary case manager;
- Financial support will be available from diverse Federal, State, and local sources, flexibly managed at the local level, to meet child and family needs;
- There will be financial incentives to stimulate continuous improvement in child safety and permanency outcomes; and
- The system will be able to collect and use data to accurately forecast what services and supports are needed, at what level of intensity and duration, and at what cost, to achieve desired outcomes for each child and family in need.

My State is taking steps to realize this vision. Just over a year ago, Florida was granted a Title IV–E waiver, which we have not yet begun to implement. I sought the waiver because I believed it would help the State reduce the number of children in foster care and the length of stay, reduce the use of restrictive and costly placement settings, and reduce re-abuse and re-entry into foster care, while stimulating much needed innovative preventive and aftercare service options. These are all goals that I know you support.

The waiver will help my State achieve these goals in part, by allowing greater flexibility and financial incentives that are better aligned with program goals. Instead of spending a disproportionate share of Federal resources to fund the deepest and least desirable part of the system—out of home care—the State and local community-based agencies will use their resources differently to test innovative ways to both protect children and preserve families.

I still believe the Title IV–E waiver can greatly help Florida transition to a more effective community-based care system and achieve the vision. However, there are obstacles that need to be addressed. To ensure that improvement and innovation are sustained and expanded under the waiver in Florida and in other States, we must remove barriers to optimal performance. Many of the problems with the existing waiver program are being addressed in H.R. 5292.

The child welfare waivers proposed in this bill present several opportunities that would help States make needed improvements in their child protection systems. I strongly support the Title IV–E waiver modifications proposed in the legislation that will:

1. Replace the tightly controlled experimental design requirements with less rigid evaluation methods that will nonetheless hold States accountable.
2. Streamline the application process and allow States to modify and expand waivers during the demonstration.
3. Allow States to broaden the size and scope of their waivers.
4. Expand the program application period beyond 2002.
5. Eliminate restrictions on replicating all features of waivers found in other States; and eliminate limits on how many waivers a State may have.
6. Allow the waivers to be a gateway to continuing flexibility.

Once a State has demonstrated improved outcomes and a cost-effective, cost neutral model, the State should not be required to return to business as usual after the waiver demonstration period ends. Instead the State should be allowed to retain the flexibility and expand the program. Given the significant diversity of our State, we would take advantage of implementing different initiatives depending on the unique assets of the communities involved.

Florida currently has a multiyear grant from the Edna McConnell Clark Foundation that involves numerous community-based strategies to better serve children and families. This initiative, currently well developed in Jacksonville, is designed to keep children from ever being abused the first time. Jacksonville would benefit from a demonstration waiver that would provide greater incentives for reinvesting savings in prevention efforts.

In other areas of Florida, most notably in Miami, there are many children in out of home care that are placed with relatives. In these areas, a guardianship waiver would significantly enhance the permanency options for these children. A stable, permanent relationship in these foster care cases cannot be established with current the Federal funding requirements. The relative guardianship waiver, which has been highly successful in Illinois, cannot be replicated in Florida under the current Federal regulations. The amendments set forth in H.R. 5292 would allow Florida and other States to apply for and replicate the Illinois waiver.

Streamlining the current process for obtaining a waiver is critical. A waiver application and implementation under the current system is a challenging and lengthy undertaking for a State. The process at the Federal level for approving proposals and subsequent implementation plans must be streamlined. For example, Florida first applied for a waiver in April of 1998, and by July 1999 had not received notification of either an acceptance or rejection from the US Department of Health and Human Services. By that time, the passage of the Federal Adoption and Safe Families Act and subsequent major State legislative changes creating a community-based care system of child protection, resulted in the need to withdraw and rewrite the pending application. Had multiple waiver options been available, Florida could have simply requested another waiver. Under current rules Florida had to decide which waiver was the most critical to the State, so the first waiver was withdrawn and a second waiver written. Even now, with this new waiver written and approved by the Department of Health and Human Services on September 29, 1999, Florida still does not have approval on an implementation plan submitted in May 2000. It has been over two and one-half years since our original submission and we have not been able to implement necessary changes.

In addition to these modifications, which would greatly enhance the waiver potential in Florida, I urge you to expand your efforts to help reduce the cumbersome and difficult to manage rules and regulations. States and providers operating under Title IV–E waivers still must contend with Federal eligibility rules and reporting requirements that are redundant, costly, and difficult to manage. The problem becomes even more acute when States try to "blend" or pool funds across multiple funding streams. The magnitude of paperwork required for eligibility and encounter reporting—in the absence of sophisticated technology-limits access to needed services. The result is higher administrative costs and fewer resources available to invest in service improvements or expansion. In my State, I am told it will be even more cumbersome to administer the Title IV–E waiver than it is to manage without the waiver. Surely, this was not the intent.

Finally, I believe the Title IV–E modifications should also address some of the problems you address in the Flexible Funding Demonstration section of the bill. I realize that the current bill addresses some of the recommendations related to transferability and de-linking in the flexible funding demonstration. However, instead of limiting this option to the five States that elect to participate in the flexible funding demonstrations, it would be helpful if these issues could also be addressed under the modification of Title IV–E waiver. All States need relief from the inordinate amounts of time and money required just to determine eligibility for Federal reimbursement. And, all States should be rewarded and not penalized when their efforts result in improved outcomes for children and families. All States should have the opportunity to re-invest savings from Title IV–E into their Title IV–B programs when their innovations result in reductions in foster care.

The section of the proposed legislation related to consolidation of grants includes a maintenance of effort requirement. While it is reasonable for Congress to expect States to maintain support for child welfare programs, the proposal, as currently written, is going to make it very difficult for States to support the bill for two reasons.

First, the bill requires States to be responsible for maintaining historic levels of State, Federal and local funding in child welfare services. Secondly, the proposed bill increases the requirement by an adjustment for inflation that occurs after 1998. This means that if a Federal funding source fails to keep pace with inflation, the State would be responsible for making up the difference. Similarly, if a local funding source either reduces funding or fails to keep pace with inflation, the State would be responsible for the gap. States will be very reluctant to accept responsibility for factors that are beyond their control. While there is an adjustment for reductions

in Federal funding, these adjustments are not adjusted for inflation. The current proposal would make the State responsible for the impact of inflation on Federal funds, even if the Federal funding source was reduced.

It would be extremely unfortunate for States to decide not to pursue the flexibility offered by the proposed legislation due to the unacceptable risk posed by the maintenance of effort requirement. I would urge you to revise the requirement to remove Federal and local funds from the calculation and to remove the inflation adjustment from consideration.

In the section of the proposed bill related to transfer of funds, the maintenance of effort provision does not appear to have some of the features that are mentioned above. It would be a positive move to avoid placing States in a position where they would fail to take advantage of opportunities to improve service delivery through more flexible use of funds because of maintenance of effort provisions that impose unacceptable financial risks.

In closing, I support the Title IV–E demonstration waiver modifications and believe the waiver model offers the best opportunity for Congress and the States to test and prove the best ways to fund the child protection system. I believe that success will be even more likely when Federal funding supports and encourages the development of a child welfare system based on community specific, State specific child and family needs. Thank you for your continued efforts to protect our country's most precious resource—our children.

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Chairman JOHNSON. Before we go on to questions, I would like to put two comments squarely in the record. First of all, I do not believe there is anyone on this committee that does not believe we do not need more money for these kids, period. That is not the issue here.

Secondly, Ms. Daly, I was elected in 1982. In 1983, I went to every child care facility in my State, every community mental health center in my State, and all of them said 80 percent of the families have substance abuse problems. We have known that. Nobody has done anything about that, so I cannot let that stand in the way. Do not tell me to tighten up the existing system to take care of that. Nobody will do it. I cannot get it to happen.

I was here when we did welfare reform the first time. It failed because we did not give them day care money. The new reform succeeded because we gave them flexible money and they could use it on day care if they needed it.

So I really was disheartened by your testimony. You know, what Connecticut is doing using flexibility is really—if your people at Catholic Family Charities in Connecticut do not know it, they should. Those safe homes where they take four or five kids who are in a household at risk and put them in a safe home instead of breaking them all up and placing them here and there. So for a month or two or maybe even three, they can treat the whole family and see, can they reunify this family? Can they find a foster care for all the family? Can they do kinship? It is not covered by our system. Those are not placement dollars.

Talk to the people at Yale. Do your people not talk to the people at Yale who have done a phenomenal job of reducing the length of stay in the psychiatric ward in the Children's Hospital of Yale from six months—imagine the reunification problems after six months of separation with that severely ill a child—to two months by supporting the whole family and the child and working through this.

I just want you to know, I am absolutely not interested and will not be a part of just pouring money into the current system be-

cause the current system does not work and we cannot reach all those people beyond the 28 percent that Wendell pointed to.

Now, one other thing I want to put on the record. This maintenance of effort issue has begun to take a very different nature in my mind and that results from my work on TANF. My State was criticized for substitution. When you got into the issue, what they were doing was trying to eliminate the difference between women with exactly the same family and income circumstances, the only difference being whether they had been on welfare or had not been on welfare. The ones that had not been on welfare had simply struggled and struggled on their own or sometimes with better family supports.

But maintenance of effort does tie in old lines, and if we want an integrated system of services to support all struggling families, all poor single parents gaining their independence, we cannot stay with this old fashioned, unenlightened policy of maintenance of effort down old lines, and this is going to be for me a major issue in welfare reform because my State was right. They moved into a system that said, if you are in the same circumstances, honey, just because you did not go on welfare, we are still going to give you the same help.

That is what we are trying to do in fatherhood. We are trying to branch out beyond mothers on welfare to the fathers of the children on welfare, and then we are going to have to branch out to the fathers of poor children not on welfare. And in foster care, we have got to reach the families that are having trouble but have not reached the Federal definition of at risk.

So I am not building a system to improve what we are doing now because it is not adequate. I am trying to build a system that looks more holistically and far earlier and looks at how can we prevent families from ever getting to the point that they are getting to now. If we do not look bigger and broader, we cannot do that. If we focus now on MOEs for this narrow thing, that is just lunacy.

So we have got to look bigger and maybe the best thing to do is to move ahead. I will be very interested and I hope the members of my subcommittee, including Ben, will comment on whether or not there would be bipartisan support for just moving ahead with the waiver part of this bill because I absolutely agree with Judge Kearney. These children cannot wait, and we are "helping" much too narrow a spectrum of the kids who need help. If we wait to treat substance abuse until the kids are beaten, what kind of society is that?

I am disheartened by your rather backward-looking approach, in my estimation, to change and want to look far bigger than that. I appreciate some of the comments that have been made here about looking bigger than that. I would also urge people with Wendell's experience to really look beyond maintenance of effort. It is such a limited concept and it will build us the wrong system.

Ms. DALY. Mrs. Johnson, may I respond?

Chairman JOHNSON. You certainly may.

Ms. DALY. Your interest in these issues is very well known in Connecticut as well as in the subcommittee. What I am arguing is not that we should not invest at the beginning of the system. Of course we should. Of course we need more prevention. What I am

afraid of is that the children who are already abused and neglected, who are already taken out of their parents' care or in foster care will get worse and worse care and some children who ought to be—

Chairman JOHNSON. What do you base that assumption on?

Ms. DALY. Because the States will be taking some of their money that would otherwise go into foster care maintenance, which I believe is underfunded now, and will transfer that money into prevention. That is a Sophie's choice. We should be doing both.

Chairman JOHNSON. I do not see that.

Ms. DALY. We should be reforming both systems. You are assuming that there cannot be any additional Federal money under this program going into these systems.

Chairman JOHNSON. I am not assuming that. I made that point earlier. I am not assuming that. I am separating the issues.

Ms. DALY. But you are trying to transfer foster care maintenance money over into prevention by allowing States to do that, which means inevitably they will be spending less money on the children who need foster care.

Chairman JOHNSON. No, no. It only means that if they have less children going into foster care, they will have more money for earlier treatment. It does not mean that once the kid is in foster care you will reduce the payment. I do not want to belabor this, but I will forego my questions since I have taken the time to make comments.

Ben?

Mr. CARDIN. Thank you, Madam Chair. Here is the dilemma. We all agree the States should have more flexibility. We all agree there is a need for more resources to be put into the program and there needs to be accountability. We also are not putting enough money into prevention and certainly not enough money into substance abuse for families at risk.

The problem is, and this is the point that Ms. Daly made that I happen to agree with, is that if you look at the history of Title XX, which was a block grant to the States that gives them flexible monies that they can use for these purposes, they actually use the money for preventive services. Now, what has happened? In 1996, it was $2.8 billion. Today, it is $1.7 billion.

The problem that I see historically, if you look at Congress over its history, flexibility has usually been followed with reduced funding, not more funding, because there is not the specific responsibility of the Federal Government to ensure certain outcomes. I am very concerned about that fact—and I know Mrs. Johnson absolutely supports more funds in this area. We joined together on the Title XX issue. I understand that.

The problem is that the people who make decisions on the dollar amounts are not always the same people who have responsibility for creating the authorization bills. We then get into a budget debate late in the session, quite frankly, children's issues do not fare as well as some of the other issues late in the session. Unless there is a specific obligation at the Federal level, historically, we have found under both Democratic and Republican administrations and Congresses, the funds have been diminished, and that is what, I guess, concerned me as we go down this path as to how we get more money into these programs that everyone acknowledges is

needed—and more flexibility into the program. How do we do both and maintain the Federal Government's standards for accountability to the States to achieve not just caring for children who already have been damaged but to prevent more children from being put at risk.

I think, Mrs. Johnson, that we could work out an agreement on the waiver issue. The waiver issue, I happen to agree with the provisions in the bill and it is possible that we could try to come to grips with that section and move that forward.

Let me just caution, as you know, we are in the last ten days of this session—actually, the last two days, but I think it is going to be the last ten days of the session because we are doing another CR until next weekend—and although we can clear our calendar here, the Senate has a difficulty clearing its calendar even for naming a post office today, so it is going to be tough to figure out how we are going to get bills through the other body.

And then lastly, let me point out, Mrs. Johnson's legislation, as I understand it, has been scored by CBO as additional outlays. The reason, as I understand it, CBO assumes that because of the baseline calculations, States will pick what is most advantageous to them and, therefore, will come out somewhat ahead as a result of the additional flexibility.

My point is very simple. If we have the additional resources—I think it is close to half-a-billion dollars as it has been scored—let us put that into the system. Maybe we could work out before the end of this session the flexibility on the waivers to the States and some additional resources into the program. We accomplish the goal that Mrs. Johnson has put forward rather persuasively, that the States need additional flexibility and they also need additional funds but that the current system needs to be changed. Well, the best way to change it is to let the States go forward with demonstration under their waiver. They do not need a new demonstration authority. They can use the waiver authority to come forward with new programs in this area.

I guess my question to the panel, and in the time that remains I will be glad to let any of you respond to it, is how do we get more money into the system? How do we do this, with the concerns that Mrs. Johnson has raised, with the needs that you know are out there? Yes, we need the money in the children who are already placed in foster care, but we also want to put more money into prevention and I really want to get some more money into substance abuse. How do we go about doing it? What are your strategies? How do we maintain Federal accountability with flexibility to the States, in 30 seconds?

[Laughter.]

Mr. CARDIN. Yes?

Mr. WALDMAN. Congressman, I do not know if I can do it in 30 seconds, but I do want to different a key point you made, just with some observations about how funding cuts follow flexibility.

I think there are some other elements at play. I think in the SSBG, which I commend both of you for supporting, there were not defined outcomes. We have defined outcomes now that I think we could rally around. If we could couple the flexibility with improvements in safety and permanency outcomes, I think that will make

a difference. And I agree with you. Without those, the program gets very vulnerable, what happened to revenue sharing, SSBG, and others. But I think those outcomes make a world of difference.

Thirty-five years of practical experience in government. This area does need more resources. That only comes two ways. I think what will get the additional resources is to spend the money better than we are doing now and get the outcomes that we need that will generate the confidence in the public child welfare system for legislators, governors, and others, and Congressmen, to make additional appropriations.

Mr. PRIMUS. Let me just comment briefly. I think the other dilemma is that when you have an open-ended stream of funding for services, there really is almost no limit in terms of what States might legitimately spend on services. So the question is, how do you minimize the risk to the Federal Government of overspending when you have an open-ended stream of funding for services? I do not think you have the same risk in terms of cash payments or maintenance payments, and so I think as part of the review, the question is, do you match it? I think a considerable State match demands accountability from States because then State legislators have to put up the money to get that flexible stream of funding. You might consider overall capped entitlements, and that does not necessarily mean an aggregate cap. It might mean a per child or a time limit on when services can be provided.

I do think you have to worry about the risk of an open-ended funding stream, and really, the question is how do you minimize that risk and still give a lot of flexibility to States.

Mr. CARDIN. You set up the issue. You have not told me the answer yet, but—

[Laughter.]

Mr. CARDIN. Thank you.

Mr. PRIMUS. I would come down in favor of the State match. I think that really does demand a lot of accountability because then State legislators have to appropriate funding and I think there is more accountability in that kind of a system than we sometimes assume.

Chairman JOHNSON. I just would say that I have written the governors to use their TANF money to focus on substance abuse and mental health issues, because I think as we move forward with welfare reform, we are beginning to focus on a population where these are very big problems, and as we get those programs better established and able to reach people on welfare, there is a whole parallel population or side-by-side population.

Dr. Wulczyn, I know you have to leave for a plane pretty soon. Would you like to make any additional comments?

Dr. WULCZYN. I think the issue on how we approach greater flexibility in the context of additional money at the same time, Mr. Waldman was exactly right that we have to focus on outcomes. If we are not getting outcomes and we need more money, then we have to find a way to do that.

I think it is conceivable that we look at—the big difference now compared to where we were 20 years ago or ten years ago is the availability of information with respect to who is using services, who are the high-risk target populations, and that we ought to use

that information more wisely, not simply for tracking outcomes but for also projecting into the future where we ought to make investments. It is conceivable to me that we could develop programs of national interest that target certain populations of children and that resources at the Federal level with matching at the State level be targeted to specific groups of children, for example, infants.

The rate of placement in foster care among children under the age of three months is extraordinarily high. Undoubtedly, it is higher than it is anywhere else in the world. We need specific revenues targeting those children. They stay in care longer than any other children admitted to foster care. They use more resources of different kinds than any other children. It would be useful to have a specific program at the national level that allowed States to target those most vulnerable children, provided that in a given State, that is the group of children that are, in fact, most vulnerable, because it is not always the case.

But I think having that kind of structure where States would, in effect, apply for targeted revenues where you have identified key target populations, target areas for some kind of revenue sharing proposal, predicated on outcomes, reducing the overall utilization of foster care, increasing the availability of preventive services, that would be a productive way to go and it would allow you to generate flexibility for States both in terms of how they are thinking of things, but also, I think, in terms of breaking down the way the current funding system does create certain incentives around building a foster care system as opposed to building a—

Chairman JOHNSON. Is this what you meant in your testimony when you said, how you purchase services affects what services you are able to develop?

Dr. WULCZYN. That is right. It is not simply a matter of expanding the array of services that influences what is available. It is how you allow them to be purchased. It is something that we learned in health care over the last 25 years and it is something that restricts the range of State responses, is that if you purchase things on a fee-for-service basis or per diem rates, which is the dominant method for purchasing foster care in this country, it is hard to get out of that when you are trying to reduce, because the level of funding is predicated on your ability to supply a claim.

It works very well when you are increasing the utilization of foster care for reasons of substance abuse and what have you, but when you enter into a period where you might logically expect the utilization of foster care to go down, then these fee-for-service systems are constraining on State efforts and, therefore, the means by which you are purchasing stifles innovation.

Chairman JOHNSON. Thank you very much.

Does anyone else have any question of Dr. Wulczyn?

Mr. CAMP. I have got some questions for the panel.

Chairman JOHNSON. All right. You are next in line to question, but thank you, Dr. Wulczyn.

Congressman Camp?

Mr. CAMP. Thank you, Madam Chairman. Thank you for this hearing and thank you for your leadership on these critical issues that are important to children.

I sort of feel like Yogi Berra. It is deja vu all over again. I remember the debate on the Adoption and Safe Families Act and there were so many people who wanted to hold the bill up for more money for kinship or drugs or whatever issues and we almost did not get the legislation because of that. Some of those same people were the first to step forward and take credit for the bill once it passed. But I think if we wait for more money, we will miss the good policies that we need now, and I know many of you have talked about the critical need in this area and it is, I mean, when you are talking about the difficulty that children face.

I do not think any of us would think children would be better served if we did not pass the Adoption and Safe Families Act and waited to try to get the funding resources in line. We have been waiting for the administration to give a report on the specifics, policy guidance in those areas where they wanted more money, and we got a report but there are no specifics in the report, so I think that we have some difficulty here.

We have worked closely with the administration to try to ensure that Health and Human Services has enough money to pay for these adoption bonuses, Mr. Waldman, that you mentioned in your written testimony, and I do think this committee, we had a significant discussion about those adoption bonuses. We established those incentives under the Adoption and Safe Families Act and I think we have protected those and continue to promote those and this committee, I know that Madam Chairman agrees and will continue to do that in the future. So I think that is something that we all can agree on.

I am interested in pursuing the waiver portion of this legislation as a possibility in the short few days that we have left, but I have a specific question for Judge Kearney. Thank you for coming again. It is good to see you. As a State official, and we do this here too, we have to balance needs and it is always a debate. You never get to get everything you want and it is trade-offs and difficult.

There are kind of two important policies here, the need for more resources and Federal dollars but also the need for greater State flexibility. If you had to kind of choose one of those, which I know is a difficult thing to ask you to do, could you discuss which you would prefer and other trade-offs in the different approaches to promoting children's safety and permanency and well-being.

Ms. KEARNEY. In coming to this job from the bench, I did not realize that in many ways it would be like the television show "Survivor" as to who gets kicked off the island today. You are right. It is a constant balancing act between competing interests, all of which are important, all of which are critical.

But I can tell you that now having done this job for 20 months, that to me, what is most critical right now is the flexibility. We have had a tremendous growth in resources in the child protection system in Florida due to the leadership of Governor Jeb Bush, who came in and recognized a significant need, urged the legislature to fund, and they have increased general revenue into our system.

But it is absolutely imperative that we have the flexibility to put the funds where they are most needed, and right now, in an analysis of the Florida child protection system, it is the front end of the system that is most critically in need. We have 14,000 children in

foster care in Florida. Our definition of foster care is the State-run traditional foster care system, not the relative placements. Although they are under the jurisdiction of the court in protective supervision status, they are not foster care.

But when I see how much money, the portion of the pie that is going into the 4(e) funding, that if I had the ability to transfer even five percent of that into a front-end portion of the system, I know I could prevent the children coming into the system to be able to have them in safe environments, to ensure that ASFA is intact, and the goals of ASFA are intact.

But right now, frankly, if asked, would you like another $500 million or would you like the flexibility to manage the system, I think as a manager, it is key right now that we have the flexibility, and that is why I felt it was imperative that I come here today to specifically address what I think is realistic for you at this moment in the political lifespan, is to address at least the waivers to give us that flexibility.

Mr. CAMP. Thank you. Thank you very much.

Chairman JOHNSON. Thank you. Mr. McCrery?

Mr. MCCRERY. This debate reminds me somewhat of the welfare reform debate, when those of us who trusted the States to use their money wisely and where they thought it could best be used were criticized by people saying, oh, the States will not do that. There must be Federal standards and guidelines and strings attached to the money or the States will just fritter it away and throw people in the streets. Obviously, that has not happened and the flexibility that we gave States in TANF has worked.

So I am a little reluctant to give in to those of you who are cautioning us not to allow States to use money that we send them in ways that they best see fit. I mean, what is the problem? Why do you suspect that Judge Kearney, when she gets that flexibility, will just waste it, fritter it away on something—I do not know what you are talking about. Why do you think people in the States are less able than we are here in Washington to determine the best interests of the children? I do not understand. I would like for you to respond. What is the problem?

Ms. DALY. May I respond? I would like for the judge, when she goes to her State legislature and for her State office of management and budget to be able to say, look, we cannot do less than this for these children who we already know are abused and neglected and are in the system because the Federal Government will not give us money, will not release those funds unless we make these investments. I want to strengthen her hand, because it is not just the judge who will make the decisions. It is all these other people and competing interests and there is not a strong lobby at the State level to protect those children. They are out of sight, out of mind, and—

Mr. MCCRERY. Well, again—

Ms. DALY. Remember, this is a—

Mr. MCCRERY. Let me interrupt for just a second because I am not satisfied with that answer.

Ms. DALY. Okay.

Mr. MCCRERY. There will be controls on the money. The States will not be able to spend it on highways. They will have to spend

it on foster care in some form or fashion. So the State legislators that you are concerned about, is there a stronger lobby for the services aspect of this program?

Ms. DALY. Well, there is a real strong lobby for the highways and we have seen how Medicaid money gets spent on highways.

Mr. MCCRERY. You cannot use this money on highways, let me repeat.

Ms. DALY. No, I understand, and I am not opposed to flexibility—

Mr. MCCRERY. Answer my question.

Ms. DALY. OKAY.

Mr. MCCRERY. Is there a stronger lobby in the State for the services aspect of this program?

Ms. DALY. Well, I think that would depend on the State. What I am afraid of—

Mr. MCCRERY. So the answer is no.

Ms. DALY. No, I do not think that is the question.

Mr. MCCRERY. So I still do not have an answer.

Ms. DALY. The question is, is there a lobby for more money? If the State is going to have more flexibility—

Mr. MCCRERY. We are not talking about more money. We are talking about flexibility.

Ms. DALY. But I think flexibility without more money in the system is just unrealistic.

Mr. MCCRERY. I hear what you think, but you have not given me a rationale for your thinking. Wendell, maybe you can shed some light on it.

Mr. PRIMUS. Again, I am for State flexibility. I am also for additional funding. I would like to give the State of Florida additional dollars. What this bill is demanding is that to get those additional dollars, she has to cut something out of IV–E, and in some ways, it is very much a mechanical issue here. Do you really want for the State of Louisiana—we do not know whether the projections of how much IV–E is really going to cost will come true. Look at the little table I provided in my testimony. For some States, caseloads went down and then back up. For other States, caseloads were level and then really exploded. Again, if you look at the history, projections are extremely difficult to make on a State-by-State basis.

So the real question is, do you really want the amount of money that Louisiana gets to depend upon a negotiation over something that is basically unknowable between Federal and State officials? I think we should give additional money much more directly and simply and give the States with that stream of funding more flexibility and then the Florida Secretary could use that money to try to reduce placements. That is what you did in ASFA. I mean, there was some additional funding, and as a result, and with some incentives, you are now getting this increase in adoptions.

So what I am basically arguing is that that would be a modest step, but I think you should do a more comprehensive review of the system. I mean, some kids are not—the other thing about the waivers, if State after State requires a waiver for the same thing, maybe the Federal provision should be changed. My understanding from Bill in the little exchange of notes is one of the primary problems is we do not take the child out of the home. There is a grandmother, a mother that is on drugs or is no longer capable of caring

for that child, and then the small child. But 4(e) says you cannot get money unless the child is removed from the home. Well, that is one of the problems and maybe in your review you ought to address that.

Mr. MCCRERY. That is something we can look at and that would certainly go along with Judge Kearney's testimony.

Yes, would you like to comment?

Mr. WALDMAN. Just briefly, and I think I am agreeing with your point of view. I just want to say for the record, I have worked for three different governors as secretary of both political parties and it did not matter which party. There was always a high commitment to this issue and a willingness to invest.

If I had to say what I thought was the constraint in getting the additional revenue from governors, legislators of both parties, and of Congress through the years, a belief that the money might not be well spent, that good money would be invested after bad. In my view sequentially, if we hope to get more resources in this system, we have got to demonstrate that we could spend them well, that there is truly return on investment for children.

Mr. MCCRERY. Let me just conclude by making two points. Number one, I am told that, in fact, we will be spending more money if this bill passes, and number two, Wendell, if you are concerned that there will be an uptick in the need that will not be anticipated by the State and they will have spent their money on other things, that might be a good way for you to get your additional funding. When it is made clear to us that there is a shortfall, then Congress often will step in to correct that if the need is proved, so I just leave you with those thoughts.

Chairman JOHNSON. I think, just for the record, it is true that the adoption bill did not have any new money in it. There was new money in the family preservation portion but not in the adoption portion and the adoption new money was in the bonus. It was the timelines and things like that that led to a lot of State reform of the process that actually was extremely favorable to children. So one of the reasons this bill is before you is because there are a lot of process reforms.

Look at the administrative dollars, and why would you not integrate training for foster care along with training for your workers? I mean, foster parents are undertrained for the kind of children they are working with. But why set up a separate foster parent training program? Why not integrate it with your casework training and then there will be a separate part that has to do with managing a foster child with problems in your own home.

But there is so much that could be integrated that it really defeats my imagination as to why you oppose this, particularly the administrative mergers when we have seen how much administrative reform saved poorly spent dollars but also helped children in the adoption reforms. So we have a long road to travel on this issue.

Mr. English?

Mr. ENGLISH. Madam Chair, in a second I am going to yield the balance of my time to Mr. McCrery so that he can continue his line of questioning, but first, I would like to congratulate you on putting forward this legislation. I do think it is timely. I also congratulate

you for moving this debate out of a sterile discussion of things like maintenance of effort and toward flexibility. The thing that I have gotten out of this hearing so far is those who advocate more money consider it a prerequisite for passing flexibility and the advocates of flexibility consider that a prerequisite before we invest more money in the system. I think we do need to do both. I do not think it weakens Judge Kearney's hand to give her the flexibility now and look at the resources in the future.

I guess the other point I would make, having worked as a staffer at the State legislative level in Pennsylvania, I do not think the debates there make them readily confused with the STOWA, but I do think that our State legislature is perfectly capable of making intelligent decisions about where to allocate our budgetary resources in Pennsylvania, and if given the flexibility, I do think they will do the right thing, whether there is a lobbying effort there for it or not.

I yield the balance of my time to Mr. McCrery.

Mr. MCCRERY. Thank you. I do not really want to ask more questions of the panel. I appreciate the testimony. You do raise some legitimate points for us to consider, but I have to say I lean toward allowing more flexibility in this system.

What I would like to do, though, Madam Chair, with your permission, is to acknowledge the tremendous work of a member of our staff who will be leaving us soon. I just learned this today and I was shocked and dismayed and felt instantly a great sense of loss. Dr. Ron Haskins is going to move on to, we hope, greener pastures.

Mr. CARDIN. Is he coming over to the Democratic side? Is that what you are talking about?

[Laughter.]

Mr. MCCRERY. He is going to the Brookings Institution. It is close.

[Laughter.]

Mr. MCCRERY. Just kidding, if there is anybody here from Brookings. It used to be that way, but with the new majority in town, they have kind of corrected their shop.

[Laughter.]

Mr. MCCRERY. Dr. Haskins did just unbelievable work on welfare reform and I dare say if it had not been for his work, we would not have produced a product that—maybe not have produced a product that could have passed and been signed by the President, and certainly would not have produced a product as finely honed and tuned and that has been shown to be so successful without his work. He will be missed sorely by this member and I am sure by every member who had the very tremendous experience of working with him on welfare reform, the biggest change in social policy in this country in probably 50 or 60 years.

Mr. CARDIN. Would the gentleman yield?

Mr. MCCRERY. I would be glad to yield.

Mr. CARDIN. I would also like for the record to associate myself with your comments. Dr. Haskins has been an extremely important part of the work of this committee and I have felt extremely comfortable as a Democrat talking with him on any issue and knowing that the information that I was receiving was going to be the right

information. He never, ever misled our side of the aisle, always worked very closely with us and with our staff people. I just want to thank him for his public service. Clearly, children are better off as a result of his efforts here in Congress.

Mr. MCCRERY. Thank you. I would like to yield to Mr. Camp.

Mr. CAMP. I thank the gentleman for yielding. There is no question that welfare reform would not have happened without Dr. Haskins' efforts. He has been a source of—first of all, a great resource, tremendously intelligent, and a real honest broker in this whole process and somebody that we have all relied on a great deal. I think when you look at the changes that have occurred with our majority in 1995, welfare reform may be our biggest accomplishment. He was right in the center of that and it is his intelligence and drive that really helped make it happen and made it easy for us as members. So I want to say, thank you, Ron, for a job well done, and hopefully you will still talk to us when you are at Brookings. Thank you.

[Laughter.]

Mr. MCCRERY. Thank you, Madam Chair.

Chairman JOHNSON. Thank you. I think that is a good note to conclude this hearing on. I did not sort of focus on the fact that this would be Ron's last hearing myself until I began to open the hearing and realized that this would be the last time that we would open a hearing together, Ron.

I do want to say that, really, without Ron's steadfast focus on the structure that underlay the welfare reform bill, and without his ability to clearly listen to and understand the heart of people's concerns all across the spectrum of both political parties, we could not have passed that bill and we particularly could not have made it the force in the lives of individual people and in our society that it has become, because without repealing the entitlement, we would not have gotten work on the table, and without getting work on the table of people's lives, we could not as a government have gotten services out there to support that work toward independence. It really was Ron's bigger vision and the courage behind that vision that enabled him to draw from all of the various groups and members the insight we all jointly needed.

But a staff director that is able to do that for the members and help them keep their eye on the most important of all the balls is really not only a gift to the members that he works with, but a gift to our nation, and we thank you, Ron, for your knowledge, for the depth of experience that you bring to the table, for your humanness, and for your honesty. It has been a real honor to work with you. Thank you.

[Applause.]

Chairman JOHNSON. The hearing stands adjourned.

[Whereupon, at 11:37 a.m., the hearing was adjourned.]

[A submission for the record follows:]

**Statement of Nancy Chandler, Executive Director, National Children's Alliance**

Mrs. Chairman and Members of the Subcommittee:

I appreciate this opportunity to provide written testimony relative to H.R. 5292, Flexible Funding for Child Protection Act of 2000. I applaud the efforts of this Committee in seeking ways to enhance the child protection services provided by states. National Children's Alliance and our nearly 350 member programs offer states an

opportunity to respond to the earliest outcry of child abuse and neglect in a manner which keeps more families intact, and reduces the use of foster care as a protective device for children.

By way of introduction, National Children's Alliance was founded in 1988 by then Madison County, Alabama District Attorney Robert E. "Bud" Cramer, Jr. In response to a crisis in services to children suspected of having been severely abused and/or neglected, then District Attorney Cramer founded the country's first Children's Advocacy Center in Huntsville, Alabama in 1985. Mr. Cramer currently serves as a Member of Congress representing the 5th District of Alabama.

Prior to this effort, investigation and intervention into serious cases of child maltreatment had been sporadic and without a common sense of duty and purpose. By bringing the various members of the child protection, law enforcement, prosecution, medical and mental health communities together, this Huntsville model was instrumental in reforming the systems that deal with child abuse cases. After the Huntsville Children's Advocacy Center opened, word quickly began to spread about this revolutionary way of intervening in cases of child abuse and neglect. The Huntsville Center was deluged with requests from communities across the country eager to open their own children's advocacy center. In response, then District Attorney Cramer and representatives of small and large, urban and rural area CACs formed National Children's Alliance.

As of September 2000, there are 259 full member programs 98 Associate member programs, and 31 chapters of National Children's Alliance. There are sites in all fifty states, the District of Columbia, and the Virgin Islands, as well as Canada.

Children's Advocacy Centers offer a change in the way the system handles child abuse cases. Rather than have each identified agency act independently in their investigation, Child Advocacy Centers bring all of the agencies "under one roof." In this model, children suspected of having been abused are jointly interviewed by law enforcement as well as child protective services so that a determination of the nature and incidence of abuse can be made more readily. Law enforcement works to see if a crime has been committed, while child protective services works on a risk assessment to see if the child can return to his or her home or if out of home services are necessary. By immediately bringing these key agencies together along with the medical, mental health and victim advocacy components, plans can quickly be made to keep the child safe from further harm.

By acting in tandem with their multidisciplinary partners, each agency is then able to make a plan that is truly in "the best interest of the child." Through the early intervention of law enforcement and prosecution, the alleged perpetrator can be made to leave the home or be removed from the scene so that the child can return home. Failing this, efforts are quickly made to place the child with other non-offending relatives so that the child is not forced into foster care.

This early, coordinated, multidisciplinary response is the heart of a Children's Advocacy Center. So often, children are placed into foster care simply because the systems need time to complete an investigation and connect with other agencies. In the Children's Advocacy Center model, these connections are made more immediately and more efficiently.

By utilizing both private and public funding, Children's Advocacy Centers offer a child-friendly model for private-public partnerships that provide services to our most vulnerable children. Over half of NCA's CAC member programs are non-profits acting through signed Letters of Agreement and Protocols to provide these early coordinated multidisciplinary services. These protocols establish the manner in which each agency is responsible for investigation and intervention. Cases are tracked throughout the system so that no child is lost to bureaucratic red tape.

States should be encouraged to use any flexibility in funding to support the development and expansion of the Children's Advocacy Center model. Our goal is that every community in the country that wishes to have a Children's Advocacy Center should be supported to build such a program. National Children's Alliance stands ready, willing, and able to enhance these efforts through training and technical assistance.